

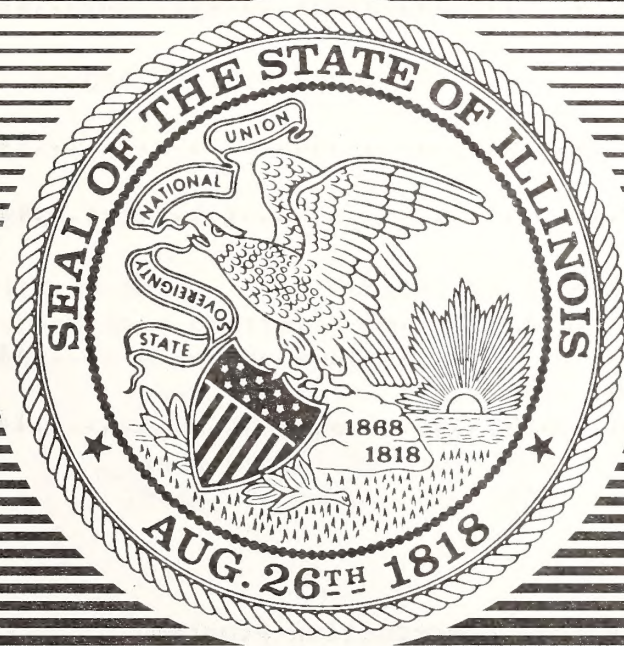
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2001

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 25, Issue 45
November 09, 2001

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000:	Data Through March	31, 2000
Issue 29-July	14, 2000:	Data Through June	30, 2000
Issue 42-October	13, 2000:	Data Through September	30, 2000
Issue 3-January	19, 2001:	Data Through December	31, 2000 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
Issue 14	March 26	April 6	Issue 41	October 1	October 12
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Issue 17	April 16	April 27	Issue 44	October 22	November 2
Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Elder Rights

2) Code Citation: 89 Ill. Adm. Code 270

<u>Section Numbers:</u>	<u>Proposed Action:</u>
270.225	Amendment
270.240	Amendment
270.245	Amendment
270.250	Amendment
270.255	Amendment
270.260	Amendment
270.270	Amendment

4) Statutory Authority: 20 ILCS 105/4.01(11) and 5.02

5) A Complete Description of the Subjects and Issues Involved: The purpose of this rulemaking is to provide greater specificity and clarification to the rules guiding the administration of the Elder Abuse and Neglect Program.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written comments concerning this rulemaking, within 45 days after the date of this issue of the *Illinois Register*, to:

Ms. Heidi E. Dodd
Assistant General Counsel
Office of General Counsel
Illinois Department on Aging
421 East Capital Avenue #100
Springfield, Illinois 62701-1789
Attention: Part 270 Elder Rights

The rule amendments will have an impact on small businesses. In accordance with Section 1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may present its comments to Ms. Heidi E. Dodd, at the above address.

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on the amendment shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Elder Abuse Provider Agencies

B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping and other commensurate with those established under the Elder Rights Programs

C) Types of professional skills necessary for compliance: Professional skills commensurate with the Elder Rights Programs

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This amendatory rulemaking provides greater specificity and clarification to rules guiding the administration of the Elder Abuse and Neglect Program, which were on the January 2000 agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGINGPART 270
ELDER RIGHTS

SUBPART A: INTRODUCTION

Section
270.10

Summary and Purpose

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section

Long Term Care Ombudsman Program

Definitions

Responsibilities of the Department and the Office of the State Long

Term Care Ombudsman

Display of Ombudsman Poster

Access to Resident Records

Conflict of Interest

SUBPART C: ELDER ABUSE AND NEGLECT PROGRAM

Section

270.200

Elder Abuse and Neglect Program

Definitions

Organizational Standards and Responsibilities: Department on Aging

Organizational Standards and Responsibilities: Regional

Administrative Agencies

Organizational Standards and Responsibilities: Elder Abuse Provider

Agencies

Elder Abuse Reporting

Immunity

Intake of ANE Reports

Access to Eligible Adults

Minimum Assessment and Classification Standards

ANE Case Work, Follow-up, Referral to Law Enforcement and Case

Closure

Authority to Consent to Services and Court Petitions

Emergency Intervention Services

Multi-disciplinary Teams

Confidentiality and Disclosure

270.275

AUTHORITY: Implementing Section 4.04(c) and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.04(c) and 4.01(11)] and Section 10 of the Elder Abuse and Neglect Act [320 ILCS 20/10].

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NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART C: ELDER ABUSE AND NEGLECT PROGRAM

Section 270.225 Organizational Standards and Responsibilities: Elder Abuse Provider Agencies

a) The elder abuse provider agency shall enter into a written contract with the regional administrative agency to provide services in a specific geographical area in the regional administrative agency's planning and service area.

b) The elder abuse provider agency shall provide such services in accordance with the Act and this Part ~~and the Department's policies and procedures~~.

c) A contract to provide elder abuse services may be terminated by the elder abuse provider agency in accordance with the termination clause in the contract.

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

Section 270.240 Intake of ANE Reports

a) The following agencies are authorized to receive ANE reports:

- 1) Illinois Department on Aging's Senior Helpline;
- 2) "After Hours" Line;
- 3) Regional administrative agencies; and
- 4) Elder abuse provider agencies.

b) An elder abuse provider agency receiving a report of ANE shall assign a priority to the report in accordance with the following:

- 1) Priority one reports are reports of abuse or neglect where the older person is alleged to be in serious physical harm or in immediate danger of death or serious physical harm. Priority one reports include, but are not limited to, the following:

A) physical abuse such as fractures, head injuries, internal injuries, or burns, when the injury is of a serious nature, such as to require medical treatment;

B) threats of serious injury or death;

C) lack of basic physical necessities severe enough to result in freezing, serious heat stress or starvation;

D) immediate medical attention is needed to treat conditions that could result in irreversible physical damages such as unconsciousness, acute pain, or severe respiratory distress;

E) alleged sexual abuse that has occurred in the last 72 hours;

F) threats of sexual abuse where the alleged abuser has access to the victim; and

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

G) punishment by the alleged abuser, such as locking the alleged victim in the closet.

- 2) Priority two reports are reports alleging that an older person is being abused, neglected or exploited and the report taker has reason to believe that the consequences are less serious than priority one reports. Priority two reports include, but are not limited to, the following:

- A) physical abuse involving scratches or bruises;
- B) inadequate attention to physical needs such as insufficient food or medicine;
- C) unreasonable confinement; and
- D) probability of liquidation or depletion of an alleged victim's income and assets.

- 3) Priority three reports are reports alleging that an older person is being emotionally abused by a caregiver or the older person's financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate threat of harm to the alleged victim.

- c) If a report includes allegations or conditions of more than one priority, the agency that has received the report assigns it to the higher priority.

de) An agency that is not an elder abuse provider agency shall forward the report to the appropriate elder abuse provider agency within the required time frame.

- ed) The elder abuse provider agency is directed to respond to reports of ANE within required time frames, including making a good faith attempt to conduct a face-to-face visit with the alleged victim.

- f) The required time frames for each priority are: for "priority one" reports, 24 hours from the receipt of the report; for "priority two" reports, 72 hours from the receipt of the report; and for "priority three" reports, seven calendar days from the receipt of the report.

g) The following exceptions shall apply and extend the time frames specified by that priority:

- 1) The alleged victim of the "priority one" report has been admitted to the hospital, in which case the required response time for a face-to-face visit is extended from 24 hours to the following work day.

- 2) The report is a "priority two" or "priority three" report, the elder abuse case worker is likely to be in danger, and a police officer or appropriate other is called to investigate or escort the worker. An "appropriate other" escort may be, but is not limited to, a mental health professional, health professional, or significant relative. The required response time for a face-to-face visit is then extended until such a time as the police officer or "appropriate other" is available, not to exceed three days beyond the required response time established for the priority.

- 3) The client does not wish or consent to a face-to-face visit

DEPARTMENT ON AGING

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within the time frame.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 270.245 Access to Eligible Adults

- a) The designated provider agencies shall have access to eligible adults who have been reported or found to be victims of abuse, neglect, or financial exploitation in order to assess the validity of the report, assess other needs of the eligible adult, and provide services in accordance with the Act. [320 ILCS 20/13(a)]

- b) When the caseworker is unable to access the alleged victim due to interference by another, the caseworker shall seek the assistance of law enforcement in accordance with Department policies. If the report is a "priority one", the elder abuse caseworker shall immediately seek police assistance in accessing the alleged victim. If the report is a "priority two" or a "priority three", then the elder abuse caseworker will make at least one additional attempt, and up to four additional attempts, to gain access to the residence prior to seeking police assistance.

- c) Where access to an eligible adult is denied, the Office of the Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access where:

- 1) a caregiver or third party has interfered with the assessment or service plan, or
- 2) the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation. [320 ILCS 20/13(b)]

- d) If the initial face-to-face visit indicates that the alleged victim does not meet the age criterion for the program, the elder abuse provider agency will terminate the assessment, document this finding in the case record, and refer the person to other appropriate services or agencies.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 270.250 Minimum Assessment and Classification Standards

- a) A provider agency designated to receive reports of alleged or suspected abuse, neglect, or financial exploitation under the Act shall, upon receiving such a report, conduct a face-to-face assessment with respect to such report. The assessment shall include, but not be limited to, a visit to the residence of the eligible adult who is the subject of the report and may include interviews or consultation with service agencies or individuals who may have knowledge of the eligible

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adult's circumstances. [320 ILCS 20/5(a)]

b) A decision on the merits of each report must be made according to the following:

- 1) Verified: When there is clear and convincing evidence resulting in a determination that the specific injury or harm was the result of abuse, neglect, or financial exploitation.
- 2) Some Indication: When there is a fair preponderance of evidence that suggests some indication of abuse, neglect, or financial exploitation exists.
- 3) No Indication: When there is a lack of credible evidence indicating that abuse, neglect, or financial exploitation exists.
- 4) Unable to Verify: This determination is used when the report does not meet the eligibility criteria of the program, the elder abuse provider agency is unable to locate the alleged victim, the elder abuse provider agency staff has been unable to gain access to the alleged victim, or the alleged victim refuses the assessment.

c) Each report must be either substantiated, unsubstantiated, or unable to substantiate, as follows:

- 1) Substantiated: When one or more of the alleged types of ANE was classified as either "verified" or "some indication".
- 2) Unsubstantiated: When all of the alleged types of ANE were determined to lack credible evidence that indicated abuse, neglect, or financial exploitation.
- 3) Unable to substantiate: When the provider agency was unable to locate the alleged victim; unable to access the alleged victim; the alleged victim refused to cooperate; or the alleged victim was deceased.

d) If, after the assessment, the provider agency determines that the case is substantiated and the victim has consented to services, it shall develop a service care plan for the eligible adult.

e) The elder abuse provider agency shall establish a case record to document each report of abuse, neglect, or financial exploitation, to include the following information where available and when applicable to the case:

- 1) essential client information, such as name, address, age, and phone number;
- 2) descriptions of the reported, suspected or alleged abuse, neglect, or financial exploitation;
- 3) investigative reports;
- 4) injury location charts;
- 5) records of financial transactions;
- 6) summaries of conversations and communications with the eligible adult, the alleged or suspected abuser, and other sources of information;
- 7) information relating to the mental competency of the eligible adult;
- 8) information on the assessment of the eligible adult, including

DEPARTMENT ON AGING

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medical or psychiatric reports;

9) summaries of the substantiation decision;

10) summaries of services or interventions offered or arranged; and

11) reports on the termination, resolution or closure of the case in accordance with Department procedures, program forms and instructions.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 270.255 ANE Case Work, Follow-Up, Referral to Law Enforcement and Case Closure

a) Case Work

Provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. [320 ILCS 20/3(c)] If, after the assessment, the provider agency determines that the case is substantiated, it shall develop a service care plan for the eligible adult, where the adult consents to services.

b) Follow-up

All services provided to an eligible adult shall be reviewed by the provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified. [320 ILCS 20/7]

c) Referral

A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation. [320 ILCS 20/5(b)]

d) The "evidence of crimes" referred to in subsection (c) includes:

- 1) death that may have been the result of abuse or neglect;
- 2) brain damage;
- 3) loss or substantial impairment of a bodily function or organ;
- 4) bone fracture;
- 5) extensive burns;
- 6) substantial disfigurement;
- 7) sexual assault or aggravated sexual assault;
- 8) serious bodily injury as the result of a pattern of repetitive actions;
- 9) extensive swelling or bruising, depending on such factors as the eligible adult's physical condition, circumstances under which the injury occurred, and the number and location of bruises;
- 10) serious symptoms resulting from the use of medications or

DEPARTMENT ON AGING

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chemical restraints, or the withholding of life sustaining medications (e.g., insulin);

- 11) evidence of severe neglect, such as unreasonable decubiti;
- 12) other activity that would place the eligible adult in imminent danger of death or serious bodily injury; or
- 13) any felonious criminal activity directed at the eligible adult that the caseworker directly observes.

ed) Case Closure

An elder abuse provider agency shall close a case when:

- 1) the victim refuses services;
- 2) the victim is deceased, unless the death was the apparent result of the ANE;
- 3) the victim has entered a long term care facility and resided there for 60 days; provided the Department may waive the 60 day limitation in cases where the provider agency submits evidence that such a waiver is necessary to protect the safety and well being of the client;
- 4) the victim has moved out of the area; provided, if the victim remains at risk and the elder abuse provider agency is aware of the new location, the provider agency shall refer the case to the elder abuse provider agency in the location of the new residence for case work and follow-up services;
- 5) the victim is no longer at risk of ANE;
- 6) the victim has received "uninterrupted" follow-up services for 12 months, which shall be considered an "administrative closure"; or
- 7) the report is not substantiated.

(Source: Amended at 26 Ill. Reg. _____, effective 20/9(a))

Section 270.260 Authority to Consent to Services and Court Petitions

- a) If an eligible adult consents to services being provided according to the service care plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services. If an adult withdraws his or her consent or refuses to accept such services, the services shall not be provided. [320 ILCS 20/9(a)]
- b) If it reasonably appears to the Department or other agency designated under the Act that a person is an eligible adult and lacks the capacity to consent to necessary services, including an assessment, the Department or other agency may seek the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 [755 ILCS 5/Art. XIa] for the purpose of consenting to such services. [320 ILCS 20/9(b)] If the Department or elder abuse provider agency seeks the appointment of a guardian pursuant to Article XIa of the Probate Act of 1975, the Department or elder abuse provider agency shall notify the nearest relatives of the disabled person not less than 14 days

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prior to the scheduled hearing, as provided by Sections 11a-8 and 11a-10(f) of the Probate Act of 1975.

- c) A guardian of the person of an eligible adult may consent to services being provided according to the service care plan. If a guardian withdraws his or her consent or refuses to allow services to be provided to the eligible adult, the Department, an agency designated under the Act, or the Office of the Attorney General may request a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian. [320 ILCS 20/9(c)]
- d) If an emergency exists and the Department or other agency designated under the Act reasonably believes that a person is an eligible adult and lacks the capacity to consent to necessary services, the Department or other agency may request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, or financial exploitation occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, or financial exploitation or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 [750 ILCS 60]. [320 ILCS 20/9(d)]
- e) Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment or services continues, the provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the eligible adult from further harm. [320 ILCS 20/9(e)]
- f) If the elder abuse provider agency has substantiated financial exploitation against an eligible adult, and has documented a reasonable belief that the eligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, the Department, or the provider agency may petition for an order freezing the assets of the eligible adult. The petition shall be filed in the county or counties in which the assets are located. [320 ILCS 20/13(d)]

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 270.270 Multi-disciplinary Teams

- a) Every elder abuse provider agency (EAPA) that has more than 7,200 persons 60 years of age and older in their designated service area shall develop and maintain a multi-disciplinary team (M-Team).
- b) The M-Team shall act in an advisory role to the elder abuse provider agency for the purpose of providing professional knowledge and expertise in the handling of complex elder abuse cases.
- c) Each M-Team shall consist of one volunteer representative each from

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the following professions: banking or finance; health care; law; law enforcement; mental health; and clergy. The EPA may choose to add representatives from the fields of substance abuse, domestic violence or other related fields.

- d) The M-Team shall meet a minimum number of eight times a year—in accordance with Department policies.
- e) Each M-Team member shall sign a confidentiality agreement not to release any elder abuse client information.
- f) The EPA shall have written procedures for recruiting M-Team members; for preparing and conducting M-Team meetings; and for financial management of M-Teams.
- g) The Department shall provide funding to EPAs to support the cost of staff time, mailings, meeting space and other costs related to M-Team meetings. M-Team members shall not be reimbursed for their services.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

COMPTROLLER

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Voluntary Deductions from Wages, Salary, or Annuities
- 2) Code Citation: 80 Ill. Adm. Code 2500
- 3) Section Numbers: Proposed Action:
2500.10 Amend
2500.50 Amend
2500.51 Amend
- 4) Statutory Authority: Authorized and implementing Section 10 of the State Salary and Annuity Withholding Act [5 ILCS 365/10] and Section 5 of the Voluntary Payroll Deductions Act of 1983 [5 ILCS 340/5].
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments are necessary to implement current provisions of the Voluntary Payroll Deductions Act of 1983 (Act). The proposed amendments reflect the inclusion of individuals hired as employees by contract and State annuitants to the group of individuals subject to the voluntary fundraising efforts sanctioned by the Act.
- 6) Will these rulemaking replace any emergency rulemaking currently in effect? No
- 7) Do these rulemaking contain an automatic repeal date? No
- 8) Do these rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of publication to:

Whitney Wagner Rosen
Legislative Counsel
Office of the Comptroller
201 State Capitol
Springfield, Illinois 62706
217/782-0905
- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

COMPTROLLER

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

- 12) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was not contemplated at the time the most recent Regulatory Agenda was due.

The full text of the Proposed Amendments begins on the next page.

COMPTROLLER

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE F: PAYROLL DEDUCTIONS
CHAPTER I: COMPTROLLER

PART 2500

VOLUNTARY DEDUCTIONS FROM WAGES, SALARY OR ANNUITIES

Section	Scope
2500.10	Authorization to Withhold
2500.20	Deduction Code Numbers
2500.30	Processing by State Agencies
2500.40	Special Provisions for United States Savings Bonds
2500.50	Special Provisions for Withholding Pursuant to the Voluntary Payroll Deductions Act of 1983
2500.51	Insufficient Wages or Annuity
2500.60	Precedence of Tax Levies
2500.70	

AUTHORITY: Implementing and authorized by Section 10 of the State Salary and Annuity Withholding Act [5 ILCS 365/10] and Section 5 of the Voluntary Payroll Deductions Act of 1983 [5 ILCS 340/5].

SOURCE: Adopted at 8 Ill. Reg. 1, effective January 6, 1984; amended at 8 Ill. Reg. 5170, effective April 6, 1984; amended at 26 Ill. Reg. _____, effective _____.

Section 2500.10 Scope

An employee or annuitant may authorize the withholding of a portion of his or her salary, wages or annuity for any one or more of the purposes identified in the State Salary and Annuity Withholding Act [5 ILCS 365] "State--Salary--and Annuity--Withholding--Act", approved August 21, 1961, as amended (1117--Rev--Stat--1983--ch--127--pars--351-et-seq-). In addition, an officer, or employee, or annuitant may authorize withholding from his or her salary, or wages, or annuity of amounts in accordance with the Voluntary Payroll Deductions Act of 1983 [5 ILCS 340]. "Voluntary--Payroll--Deductions--Act--of--1983", approved September 26, 1983 (111--Rev--Stat--1983--ch--157--pars--501-et-seq-).

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

Section 2500.50 Special Provisions for United States Savings Bonds

- a) For United States Savings Bond deductions only, the State agency receiving the authorization to withhold shall provide a duplicate copy of the deduction authorization form to the Comptroller in such format as will provide the Comptroller with the information required by the Federal Regulations, so that the Comptroller may properly issue the

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bonds as authorized under 31 USC 3105 (31-C.F.R.--317--353,--July--1983). In addition, written notice of termination of withholding for the purchase of United States Savings Bonds shall be filed with the Comptroller.

b) The minimum amount an employee or annuitant may authorize to be withheld for United States Savings Bonds is \$2.50\$1:25 per pay period. Whenever a sufficient sum has accumulated in an employee's or annuitant's account in the trust fund established for the purchase of United States Savings Bonds in the denomination selected by the employee in his deduction authorization form, the Comptroller shall purchase such bond on behalf of the employee. The Comptroller shall not be liable for interest on funds withheld for the purchase of bonds.

c) United States Savings Bonds must be issued in registered form. Registrations requested must conform with one of the forms as required under 31 USC 3105 set forth in the federal regulations, 31-C.F.R. 353. For the purposes of this part, these federal regulations are incorporated by reference as of September 17, 1983.

d) After issuance, the employee or annuitant shall be solely responsible for maintaining records pertaining to bonds issued to him or her (i.e., serial number, date of issuance, denomination of bond, etc.).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 2500.51 Special Provisions for Withholding Pursuant to the Voluntary Payroll Deductions Act of 1983

a) A petitioning organization desiring to be designated as a "qualified organization" under the Voluntary Payroll Deductions Act of 1983 (hereinafter the "Act") must submit written designations from at least 4,000 State employees and/or annuitants indicating that each employee or annuitant intends to authorize withholding for payment to that such organization.

b) Petitioning organizations shall submit proposed forms for the written designations to the Comptroller for approval. The Comptroller will approve the such forms where the information set forth in this Subsection paragraph (b) is included on such forms. At a minimum, petitioning organizations shall include on the written designation forms the following:

- 1) Information identifying the petitioning organization;
- 2) The employee's or annuitant's name (dated signature);
- 3) The State Agency in which the such employee is currently employed, if applicable;
- 4) The employee's or annuitant's Social Security Number;
- 5) A statement in prominent type "This is not a payroll deduction authorization.";
- 6) A statement of the percentage of the organization's total

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collected receipts from employees' payroll and/or annuitants' deductions that which are distributed to the benefiting agencies and the percentage of the organization's total collected receipts from employees' payroll and/or annuitants' deductions that which are expended for fund-raising and overhead costs.

7) Suggested language for the written designation form is set forth below:

I, (Name) am currently employed in (State agency). My Social Security Number is _____. It is my intention to authorize payroll deductions on behalf of _____ organization. The percentage of this organization's total collected receipts from employees' payroll deductions which are distributed to our benefiting agencies is _____. The percentage of total collected receipts from employees' payroll deductions which are expended for fund-raising and overhead costs is _____. I understand that this is not a payroll deduction authorization.

Employee Signature

(Date)

c) No fewer than 4,000 employee and/or annuitant designations shall be submitted to the Comptroller by the petitioning organization at one time, in either of the following formats:

1) In a "petition" format with the information established in Subsection paragraph (b) above prominently typed at the top of the page with spaces for up to 100 signatures.

2) In a "card" format, with the information established in Subsection paragraph (b) above typed on each card with a space for signature for only one employee or annuitant. The such cards shall not exceed 8 1/2 by 11 inches and must be batched in groups of 100.

d) Entities desiring designation as a qualified organization must show entitlement by making the certifications identified in paragraphs 2 through 7 of Section 3(b)(2)-(10) of the Act. The Such certifications shall be transmitted along with the 4,000 written designations from employees and/or annuitants to the Comptroller at his offices at 325 West Adams Street, Springfield, Illinois 62706 Attention: Payroll Department, in letter form signed by the chief executive officer (or his equivalent) of the requesting organization.

e) By February 1 of each year, each year in the month preceding the anniversary date of the issuance of the deduction code number, the Comptroller will notify by letter each qualified organization for which the Comptroller's records indicated that fewer than 5002:500 employees and/or annuitants have authorized withholding on

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- behalf of that such organization. The notification shall give the qualified organization until March 1 to provide the Comptroller with documentation that the 500 deduction requirement has been met. If the qualified organization does not submit evidence that 50027500 employees and/or annuitants have authorized withholding on behalf of the such organization within 30 calendar days after of the date of the Comptroller's notification letter, the Comptroller will discontinue withholding for that such organization. Evidence of withholding authorization by employees or annuitants may shall consist of either signed payroll or annuity deduction authorization forms that or-copies of--payroll--vouchers--from-the-most-recent-pay-period-available-which include withholdings on behalf of such organizations or information submitted to the Comptroller by a university or retirement system that documents the number of State and university employees and annuitants who have authorized withholding on behalf of the organization during the prior calendar year. The Comptroller shall, by March 15 of each year, submit to the Governor or his or her designee, or such other agency as may be determined by the Governor, a list of all organizations that have met the 500 payroll deduction requirement.
- f) An employee or annuitant may authorize the withholding of a portion of his salary, or wages, or annuity for contribution to a maximum number of four two organizations described in paragraphs-(b)-and-(c)-of Section 3 (b) and (c) of the Act. [5 ILCS 340/4 and 4.5] Once a State agency has received four two currently effective deduction authorization forms from an employee or an annuitant for withholding on behalf of the organizations described in paragraphs-(b)-and-(c)-of Section 3 (b) and (c) of the Act, the State agency shall accept no further deduction authorization forms for organizations described in paragraphs--(b)--and-(c)-of Section 3 (b) and (c) of the Act from that employee or annuitant, unless a previously effective deduction authorization is terminated by the employee or annuitant (or by the expiration of the stated term of the prior authorization).
- g) As used in this Section, "employee" means any regular officer or employee who receives salary or wages for personal services rendered to the State of Illinois, including an individual hired as an employee by contract with that individual. [5 ILCS 340/3(a)]
- h) As used in this Section, "annuitant" means a person receiving an annuity or disability benefit under Article 2, 14, 15, 16 or 18 of the Illinois Pension Code [40 ILCS 5]. [5 ILCS 340/3(f)]

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Off-Highway Vehicle Recreational Trails Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3045
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3045.10	Amendment
3045.40	Amendment
3045.50	Amendment
3045.60	Amendment
3045.80	Amendment
3045.100	New Section
- 4) Statutory Authority: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments update procedures and requirements, including the public access sticker requirements.
- 6) Will these rulemaking replace any emergency rulemaking currently in effect? No
- 7) Do these rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Businesses, municipalities and not for profit corporations that apply for Off-Highway Vehicle Recreational Trails Grants will be affected by the amendments to this rule.

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B) Reporting, bookkeeping or other procedures required for compliance:
Specific maps are required as part of the application for a grant; endangered species and historic resources preservation consultation is required prior to construction on grant-funded land; issuance of Off-Highway Vehicle access stickers by grant recipients is something all grant recipients are expected to do; and grant recipients are required to operate for a number of years depending on the amount and purpose of the grant.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER 9: GRANTS

PART 3045

OFF-HIGHWAY VEHICLE RECREATIONAL TRAILS GRANT PROGRAM

Section	
3045.10	Program Objective
3045.20	Program Eligibility Requirements
3045.30	Funding Assistance Formula
3045.40	General Procedures for Grant Applications and Awards
3045.50	Eligible Project Expenditures
3045.60	Project Evaluation Criteria/Priorities
3045.70	Review by Advisory Board
3045.80	Program Compliance Requirements
3045.90	Program Information
3045.100	Issuing Public Access Stickers

AUTHORITY: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15].

SOURCE: Adopted at 23 Ill. Reg. 314, effective December 21, 1998; amended at 26 Ill. Reg. _____, effective _____.

Section 3045.10 Program Objective

The intent of the grant program is to provide financial aid to government agencies, not-for-profit organizations, and other eligible groups or individuals as noted in Section 3045.20 to develop, operate, maintain, and acquire land for off-highway vehicle parks, trails, roadside facilities and trails that are open and accessible to the public in Illinois, as well as maintenance and repair of the parks, trails and trails facilities. Funds for the grant program are derived from revenue generated in the Off-Highway Vehicle Trails Fund, a special fund in the State Treasury.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 3045.40 General Procedures for Grant Applications and Awards

- a) Requests for funding assistance through the OHV grant program must be made through written application to the Illinois Department of Natural Resources, hereafter referred to as the Department. Application Necessary-application-forms-and instructions are available through the Department.
- b) To be eligible for funding consideration, project applications must be submitted to the Department's Division of Grant Administration by an

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annual established application deadline date that will be publicly announced by the Department. Notice of grant awards generally should be announced within 180 days after the application submission deadline date. Awarding of grants is made solely under the authority and directive of the Director of the Department.

c) Grant applications shall consist of the following basic components:

- 1) applicant's name, address, telephone number and designated contact person;
 - 2) copy of incorporation papers for private OHV club/organization applicants;
 - 3) project narrative statement describing the project concept, location and estimated cost, need for and objectives of the project, type of OHVs authorized to use project site, anticipated benefits and approach for accomplishing the project;
 - 4) national wetlands inventory map, project-location-map, site plat map, 1:24,000 scale topographical map (commonly called a 7 1/2 minute quad) with the site boundaries drawn on the map, and proposed development plan;
 - 5) project environmental evaluation, including the location of any cemeteries on site, or nature preserves on site or nearby;
 - 6) proof of land ownership or usage rights for proposed development (construction) projects or commitment for title insurance for project property planned for acquisition;
 - 7) a document signed by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project; and
 - 8) proof of liability insurance or commitment for such insurance if a requested grant application element.
- d) A program information packet may be obtained from the Department by contacting the Division of Grant Administration (see Section 3045.90, Program Information).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 3045.50 Eligible Project Expenditures

a) Grant assistance may be obtained for, but not limited to, the following:

- 1) cost of land acquisition (fee simple title or permanent easement, lease or similar management arrangement, etc.) from willing sellers for OHV trails and scramble areas, including approved survey, appraisal costs, title insurance and closing costs;
- 2) construction, rehabilitation, maintenance and necessary design services for OHV trails/routes and scramble areas including site preparation work, signage, fencing, bridges, grooming equipment,

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etc. and associated support facilities including parking, shelters, restrooms, potable water supply, lighting, and other related amenities deemed necessary;

- 3) restoration of areas damaged by OHV usage;
- 4) rider education and safety programs; and
- 5) cost of facility security.

b) It is the Department's policy that the OHV grant program be used primarily to assist applicants purchase necessary materials and contract for specialized labor to develop and maintain public OHV facilities. Labor necessary for project operation shall be the responsibility of the applicant.

c) No grant assistance will be awarded to projects that, either in whole or in part, will not be open to the general public for OHV use. (See Section 3045.80(n) regarding operation and maintenance requirements.)

d) Grant assistance from this program cannot be used for the following purposes:

- 1) land acquisition through eminent domain; and
- 2) construction of OHV trails and areas on Department owned and managed lands and on U.S. Forest Service lands designated as wilderness or currently not authorized for such use by an approved management plan.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 3045.60 Project Evaluation Criteria/Priorities

The following criteria (not listed in any priority order) has been established by the Department for evaluating and ranking project applications for funding assistance:

- a) projects proposing long distance, integrated, intra-county and inter-county trails or large scramble areas rather than short, isolated trails or small scramble areas;
- b) projects proposing initial development of OHV facilities. Special consideration will also be given to those projects representing initial requests for funding assistance in a county;
- c) projects promoting multiple recreation use of the project site;
- d) projects located in areas (counties) of high demand as determined by population and the number of registered OHVs in the area;
- e) projects having minimal adverse environmental ~~and social~~ impact; and
- f) projects providing the most long term, stable management potential.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 3045.80 Program Compliance Requirements

a) Grant projects approved through the OHV program shall be completed

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within 24 months from the date of approval unless otherwise approved by the Department. All approved projects must be in accordance with the agreed upon project specifications and a final billing request for reimbursement submitted to the Department.

- b) All land and equipment/materials purchased through the OHV grant program, except those purchased by government agencies, shall be subject to repossession and disposition by the Department as deemed appropriate upon the dissolution of the project sponsor or as a result of unresolved project sponsor non-compliance with program regulations as stated herein. Land and equipment/materials purchased by government agencies where the project sponsor fails to comply with program regulations stated herein shall be responsible for repayment of funds to the Department equal to the original grant amount disbursed to the sponsor or the property's certified fair market value at the time of non-compliance, whichever is deemed most appropriate by the Department.

- c) Land acquired with funding assistance from the OHV grant program shall be operated and maintained in perpetuity for public motorized recreation unless otherwise approved by the Department. Land acquired pursuant to a contract paid over time, with acquisition partially funded by the OHV grant program, shall include in the contract to purchase that the Department shall have a lien against the property in the amount funded from the program, and shall have a reasonable time from time of notice to the Department by the seller that the buyer is in default to:

- 1) pay the remainder of the purchase price and take title to the land;
- 2) substitute another party in place of the original buyer; or
- 3) release the lien upon receiving payment of all grant funds plus 8% interest.

- d) Grant recipients receiving development assistance only shall be bound by the terms of this Part for the period of time specified below for the total amount of OHV funds expended on the project. The time period specified below shall commence after receipt of the final reimbursement payment. Recipients shall agree that the Department shall have a lien upon the property for the number of years the recipient is bound, and that the lien may be satisfied only by repayment of the entire grant amount or by operation, by the recipient or a Department designee, of a public motorized off-highway vehicle park for the number of years for which the recipient is bound.

\$1-\$50,000 - 5 years

for every \$10,000 increment over \$50,000 - add one year

- e) With the exception of designated OHV routes on or along local roads and streets, all OHV facilities developed with assistance from the OHV grant program shall be posted with a liability disclaimer sign at

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ingress/egress points to the facility warning users that they use the facility at their own risk.

- f) With the exception of designated OHV routes on or along local roads and streets, it shall be the sole responsibility of the project sponsor to adequately patrol the OHV-assisted facility to ensure proper usage of the facility and user compliance with all State and local OHV regulations. Failure of the project sponsor to take corrective measures that bring the facility into compliance with this Part or to help remedy complaints lodged by local citizens concerning misuse of OHV-assisted facilities shall be grounds for a finding of program non-compliance as specified in this section and be subject to corrective measures by the Department as deemed appropriate.

- g) During all times of operation of an OHV grant assisted facility, the project sponsor (excluding government entities) must possess insurance protection providing a minimum of \$1,000,000 per occurrence liability coverage.

- h) The project sponsor (applicant) shall indemnify, protect and hold harmless the Department from any and all liability, costs, damages, and claims arising as a direct or indirect result of the construction, operation or maintenance of facilities assisted with OHV grant funds.

- i) The project sponsor must possess the resource capabilities to:

- 1) initially finance 100% of the total cost prior to grant reimbursement, unless otherwise approved for invoices of \$5,000 or more for approved acquisitions by not-for-profit organizations such as ATV clubs; and
- 2) properly maintain and operate the OHV fund-assisted facility after project completion.

- j) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:

- 1) Acquisition Project: Proof of good faith negotiations or fair market value offer to land seller, copy of property deed (showing ownership transferred to the project sponsor/applicant), and copies of canceled check(s) showing proof of payment to seller.
- 2) Development Projects: Copy of construction As-Built drawings (no larger than 11" x 17"), copy of receipts/invoices for project costs, and copy of canceled checks showing proof of payment.

- k) All financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of 5 years after final reimbursement payment is made by the Department.

- l) The project sponsor must permanently post an OHV grant program acknowledgment sign at the project site. The required sign will be furnished by the Department.

- m) Upon request, all work specifications must be submitted by the project sponsor to the Department for review prior to commencing work. Project sponsor will be notified by the Department if the proposed

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n)†† project requires the approval of a registered professional engineer. Department representatives shall have access to OHV-assisted project sites at any time during construction to assess project progress and during facility operation to ensure continuing compliance with program regulations. As time allows, Department representatives shall be available, upon request, for consultation/technical assistance concerning project development. It shall be further understood that a final inspection and acceptance of the completed project work must be made by a Department representative prior to approval of final reimbursement payment to the project sponsor.

o)†† In connection with, and prior to, the construction, and thereafter the subsequent operation and maintenance, of OHV grant assisted facilities, the project sponsor (applicant) agrees that it shall be responsible for and obtain all necessary permits, licenses or forms of consent, as the case may be, from, but not limited to, the following agencies:

- 1) Illinois Department of Natural Resources, Office of Water Resources;
 - 2) Illinois Environmental Protection Agency;
 - 3) U.S. Army Corps of Engineers;
 - 4) Illinois Department of Public Health (Campground Licensing and Recreational Area Act);
 - 5) Illinois Department of Transportation, Division of Highways; and
 - 6) Local building, zoning or road commissions, etc.
- p) Prior to any construction or trail development on sites that have received or have been approved for OHV grant assistance, the grantee must comply with the consultation requirements of the Endangered Species Act [520 ILCS 10/11(b)] and the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420/4].

q)†† The project sponsor must comply with and abide by the following operation and maintenance provisions:

- 1) All off-highway vehicles operated on sites or trails that have received OHV grant assistance must display an Illinois OHV public use sticker on the front center of the OHV, or have a receipt for a one-day competitive event for that day on that site. The sticker is available from the Department and approved vendors. Off-highway vehicles that display a similar decal from states that have reciprocity agreements with Illinois do not need the Illinois sticker. Government-owned or -leased OHVs are exempt from this requirement.

2)†† The charging of user fees for general public use must be approved by the Department.

3)†† Except as noted below, all OHV grant-assisted facilities must be open and available for general public use and enjoyment without regard to sex, race, color, creed, national origin or residence.

A) Use of the project facility can be restricted to only those users that can show proof of adequate personal liability insurance coverage or are willing to sign liability waivers

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concerning use of the facility.

B) Use of the project facility may be restricted by type of OHV use if specified in the approved project agreement or if justified and approved by the Department.

4)†† All OHV grant assisted facilities shall be operated, maintained and utilized for general public use in a safe and attractive manner so as to maximize the facility's intended public benefit.

5)†† Department personnel shall have access to OHV grant assisted facilities at all times during hours of normal operation for inspection purposes to ensure continued compliance with program regulations.

r)†† All funds administered by the Department under the OHV grant program and expended by the project sponsor shall be in accordance with all applicable State statutes.

s)†† The Department may unilaterally rescind OHV grant funds and terminate project agreements any time the General Assembly fails to appropriate or release sufficient OHV grant funds to fulfill the obligation or the applicant demonstrates non-compliance with this Part. Otherwise, after project commencement, OHV grant funds and project agreements may be rescinded, modified, or amended only by mutual agreement with the project sponsor. A project shall be deemed commenced when the project sponsor has made an expenditure or has incurred an obligation with respect to the project.

t)†† Failure by the project sponsor to comply with this Part shall be cause for the suspension of all OHV grant fund obligations and/or repossession of project lands and equipment/materials purchased with grant funds, unless, in the judgment of the Department, such noncompliance was due to no fault of the project sponsor (applicant).

Section 3045.100 Issuing Public Access Stickers

a) The Illinois Department of Natural Resources (DNR) has the authority to designate agents to sell public access stickers on behalf of the Department. The consent requirements, terms and procedures to follow will be the same as for licenses identified in 17 Ill. Adm. Code 2520 - Consignment of Licenses, Stamps and Permits.

b) Stickers have a maximum issue period of one year. The sticker expiration year is listed on the decal. Stickers will expire March 31 of each year.

c) Stickers will be sold at the following rates:

- 1) \$10 for individual use by Illinois residents on an OHV titled for recreational use;
 - 2) \$17 for rental units, untitled vehicles, vehicles titled for production agriculture, or non-residents from states that do not have a reciprocal agreement with the Department;
 - 3) \$25 for dealer and manufacturer demonstrations and research; and
 - 4) \$5 one-day competitive event (receipt only, no sticker).
- d) Agents may charge a \$1 issuing fee for each sticker or competitive

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event receipt sold.

- e) Individuals or companies requesting a replacement sticker shall:
- 1) submit a copy of the sticker purchase receipt;
 - 2) complete a DNR replacement decal form that has been notarized to ensure that the application is accurate and non-fraudulent;
 - 3) submit a \$3 fee per sticker; and
 - 4) mail the form to:

Illinois Department of Natural Resources
Replacement OHV Access Sticker
P.O. Box 19459
Springfield IL 62791-9559

- f) Placement of the sticker must be on a visible location in the front center of the vehicle.
- g) Advertising revenues received from ads on the sticker booklets or safety brochures shall be deposited into the Off-Highway Vehicle Trails Fund.

(Source: Added at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Professional Engineering Practice Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1380
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1380.210	Amendment
1380.220	Amendment
1380.230	Amendment
1380.240	Amendment
1380.250	Amendment
1380.290	Amendment
1380.295	New Section
1380.296	New Section
1380.300	Amendment
APPENDIX A	

- 4) Statutory Authority: The Professional Engineering Practice Act of 1989 [225 ILCS 325]

- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-92, effective January 1, 2000, is the sunset reauthorization of the Professional Engineering Practice Act of 1989; these are further changes as a result of that reauthorization. Section 1380.295 is added to specify seal requirements, while Section 1380.296 details acts constituting the practice of professional engineering. Changes were made in Section 1380.220 relating to curriculum requirements in non-approved programs. Section 1380.290 is amended to clarify that a licensee may not serve as the managing agent for more than one professional design firm. Other technical changes have also been made.

- 6) Will these Proposed Amendments replace an emergency Rulemaking currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these Proposed Amendments contain incorporations by reference? No

- 9) Are there any other Proposed Amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor

DEPARTMENT OF PROFESSIONAL REGULATION

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Springfield IL 62786
217/785-0813
Fax #: 217/782-7645

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those employing professional engineers
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: Professional engineering skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1380

THE PROFESSIONAL ENGINEERING PRACTICE ACT OF 1989

Section	
1380.210	Approved Engineering Program
1380.220	Definition of Degree in a <u>Non-approved Basic Engineering Program</u> or a <u>Related Science Curriculum</u>
1380.230	Approved Experience
1380.240	Application for Enrollment as an Engineer Intern by Examination
1380.250	Application for Licensure as a Professional Engineer by Examination
1380.260	Examination
1380.270	Restoration
1380.275	Fees
1380.280	Endorsement
1380.285	Inactive Status
1380.290	Professional Design Firm
1380.295	Seal Requirements
1380.296	Acts Constituting the Practice of Professional Engineering Pursuant to Section 4 of the Act
1380.300	Standards of Professional Conduct
1380.305	Professional Engineer Complaint Committee
1380.310	Renewals
1380.320	Granting Variances

APPENDIX A Significant Dates for the Administration of Section 19 of the Act - Endorsement

AUTHORITY: Implementing the Professional Engineering Practice Act of 1989 [225 ILCS 325] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Professional Engineering Act, effective March 10, 1976; codified at 5 Ill. Reg. 11055; codified and amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; Part repealed at 9 Ill. Reg. 10038, effective June 18, 1985; new Part adopted at 9 Ill. Reg. 10040, effective June 18, 1985; amended at 10 Ill. Reg. 19507, effective November 5, 1986; amended at 11 Ill. Reg. 8767, effective April 20, 1987; recodified from Chapter I, 68 Ill. Adm. Code 380 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1380 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2942; amended at 14 Ill. Reg. 247, effective December 28, 1990; amended at 15 Ill. Reg. 17729, effective November 26, 1991; amended at 16 Ill.

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Reg. 15553, effective September 28, 1992; amended at 18 Ill. Reg. 14737, effective September 19, 1994; amended at 19 Ill. Reg. 16076, effective November 17, 1995; amended at 20 Ill. Reg. 6477, effective April 25, 1996; amended at 21 Ill. Reg. 13839, effective October 1, 1997; amended at 22 Ill. Reg. 16516, effective September 3, 1998; amended at 24 Ill. Reg. 625, effective December 31, 1999; amended at 24 Ill. Reg. 13727, effective August 28, 2000; amended at 26 Ill. Reg. _____, effective _____.

Section 1380.210 Approved Engineering Program

- a) The Department of Professional Regulation shall, upon the recommendation of the State Board of Professional Engineers (the Board), approve an engineering program as reputable and in good standing if it meets the following minimum criteria:

1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree in engineering.

2) Faculty

A) The faculty shall have a sufficient number of full-time, or full-time equivalent, instructors to make certain that the educational obligations to the student are fulfilled. A program at the basic level shall have no fewer than 3 full-time faculty members whose primary commitment is to that program. If an institution relies on part-time faculty members, it shall demonstrate that, in addition to the commitment of at least 3 full-time equivalent faculty members, effective mechanisms are in place to provide adequate levels of student advising and faculty interaction and faculty control over the curriculum.

B) The faculty shall have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions. Other evidence of faculty capability includes non-academic engineering experience, experience in teaching, ability to communicate effectively, participation in professional, scientific and other learned societies, licensure as a professional engineer and an interest in students' curricular activities.

C) Teaching loads shall allow time for research and professional development activities. Stimulation of students' minds requires faculty involvement in scientific and technological development and in instructional innovation.

3) Curriculum

A) The curriculum shall include at least 4 academic years leading to the awarding of the baccalaureate degree while providing integration of the educational experience with the ability to apply the knowledge gained to the identification and solution of practical problems.

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- B) The overall curriculum shall include a minimum of 120 semester hours or their equivalent (e.g., 180 quarter hours) and shall include at least the following subjects:
Mathematics (beyond trigonometry) - 15 hours.
~~Basic-Sciences-(Physics and Chemistry)-15 hours.~~
Engineering Sciences - 30 hours.
Engineering Design - 15 hours.
Humanities/Social Sciences - 15 hours.
- C) Mathematics shall be beyond trigonometry, and include differential and integral calculus, and differential equations at the baccalaureate level. Mathematics shall also include, but shall not be limited to, the study of probability, statistics, numerical analysis and advanced calculus. Courses in computer usage and/or programming shall not be used to satisfy the mathematics requirement.
- B) ~~Basic-sciences-shall-include-basic-physics-and-chemistry-and-may-also-include-life-sciences,--earth-sciences--and/or advanced-physics--and--chemistry--as-appropriate--to--the engineering-discipline-being-studied.~~
- DE) Engineering sciences have their roots in mathematics and basic sciences but carry the knowledge toward creative application. Such subjects include, but are not limited to, mechanics, thermodynamics, electric and electronic circuits, material science and other subjects depending upon the engineering discipline.
- EP) Engineering design involves the conversion of resources to predetermined objectives. Course requirements shall include the establishment of objectives and criteria, synthesis, analysis, construction, testing and evaluation which develop student creativity through open-ended problems and consideration of alternative solutions. The inclusion of realistic constraints, such as economic factors, safety, aesthetics, ethics and social impact is appropriate. Examples of subjects in these areas include design of circuits, machines, power networks, process equipment and systems and water treatment.
- FS) Humanities and social sciences are, respectively, the branches of knowledge that concern man and his culture, and that concern individual relationships in and to society. Examples of subjects in these areas are philosophy, history, literature, fine arts, religion, sociology, psychology, political science, economics and foreign languages (other than a student's native language). Non-traditional courses might include social responsibility and professional ethics. Subjects such as accounting and management may be acceptable engineering electives, but do not satisfy the objectives of this area.
- GH) Laboratory experience is essential to an engineering

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education at both theoretical and practical levels.

Hf) Computer-based experience shall be included in the program of each student. The program shall include technical computations, problem solving, data acquisition and usage, process control and computer-assisted design. The student shall have access to computational facilities in order to integrate these techniques into the program.

Ij) The program shall require that the student demonstrate competency in both written and oral communication.

Jk) An understanding of ethical, social, economic and safety considerations shall be included in the engineering program.

Kb) For those institutions that elect to prepare a student to enter the profession at the advanced level, the curriculum shall satisfy the criteria set forth in this Section at the basic level, and shall include at least one year of additional study. That year shall include at least 2/3 of a year of advanced mathematics, basic sciences, engineering sciences and engineering design. Of this component, at least 1/3 of a year shall be devoted to engineering design. The program shall be designed toward a meaningful individual course of study and include thesis, research and/or special projects.

4)

Facilities

A) The laboratory facilities shall reflect the requirements of the offered educational program. The laboratory should provide for individual project work by the students and the faculty. The facilities shall be equipped with instruments and scientific equipment of a kind and quality to ensure the effective functioning of the laboratory.

B) The libraries in support of the engineering program shall be both technical and nontechnical, to include books, journals and other reference material for collateral reading in connection with the instructional and research programs and professional work. The library collection shall reflect the existence of an active acquisition policy; this policy shall include specific acquisitions on the request and recommendation of the faculty of the engineering program. There shall be computer-accessible information centers and inter-library loan services for both books and journals. The library collections, whether centralized or decentralized, shall be readily available for use with the assistance of trained library staff, or through an open-stack arrangement, or both.

C) There shall be computer facilities accessible to the engineering students and faculty.

5) The institution shall maintain permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

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b) In determining whether a program should be approved, the Department shall take into consideration but not be bound by accreditation by the Accreditation Board for Engineering and Technology (ABET).

c) The Department, upon the recommendation of the Board, has determined that all engineering programs accredited by or determined equivalent by the Engineering Accreditation Commission of ABET meet the minimum criteria set forth in subsection (a), above, for an approved engineering program and are, therefore, approved.

d) Withdrawal of Program Approval

1) The following are grounds for withdrawal of approval of an engineering program or a program leading to a degree in basic engineering.

A) Non-compliance with any provisions of the Professional Engineering Practice Act of 1989 [225 ILCS 325] (the Act);

B) Non-compliance with any provision of this Part;

C) Fraud or dishonesty in furnishing documentation for evaluation of the program; or

D) Failure to continue to meet the criteria of an approved program as set out in this Section.

2) If the Board has reason to believe there has been any fraud or dishonesty in the furnishing of any documentation for the evaluation of a program on the part of any licensee, it shall refer such matter to appropriate Department personnel for any disciplinary action which might be appropriate under the Act.

3) A program whose approval is being reconsidered by the Department shall be given 15 days written notice prior to any recommendation by the Board and may either submit written comments or request a hearing before the Board.

e) Evaluation of Newly Submitted Programs

1) An educational institution with a program that has not been evaluated will cause to be forwarded to the Department documentation concerning the criteria in this Section.

2) Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever is later, the Board will evaluate the program based on all documentation received from the school and any additional information the Department has received which will enable the Board to evaluate the program based on the criteria specified in this Section.

f) For purposes of Section 12(c)(1) of the Act, an approved graduate engineering program shall:

1) Grant a Doctor of Philosophy or Doctor of Science degree;

2) Be in a curriculum from an institution with an engineering program which has at least one curriculum for a baccalaureate degree that is approved in accordance with Section 1380.210(a) of this Part; and

3) Include the following minimum requirements:

A) Completion of at least 64 semester hours, or 96 quarter

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hours, including hours earned toward the master's degree requirements.

- B) Passing of a preliminary examination.
- C) Completion of at least an additional 32 semester hours, or 48 quarter hours of thesis research.
- D) Passing of a final examination.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1380.220 Definition of Degree in a Non-approved Basic Engineering Program or a Related Science Curriculum

- a) The educational institution shall be legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree in engineering or related science.

- b) A degree ~~degree~~ from a non-approved engineering program in ~~Basic Engineering~~ or a related science curriculum ~~Related--Science~~ is a four-year curriculum resulting in a baccalaureate degree which shall include a minimum of 120 semester hours or their equivalent (e.g., 180 quarter hours) and shall include at least the following subjects for the noted semester hours or their equivalent:

- 1) A Baccalaureate Degree in Engineering from a Non-approved Engineering Program ~~Basic-Engineering~~

Mathematics (beyond trigonometry, including a sequence in differential and integral calculus) - 15 hours.

~~Basic-Sciences--t~~ Physics and Chemistry† - 15 hours.

Additional Sciences - 10 ~~30~~- hours.

Engineering Sciences and/or Design - 30 ~~10~~ hours.

Humanities and/or Social Sciences - 15 hours.

- 2) Related Science Curriculum (such as a Baccalaureate Degree in Chemistry, Physics, and/or Mathematics)

Mathematics (beyond trigonometry, including a sequence in differential and integral calculus) - 15 hours.

~~Basic-Sciences--t~~ Physics and† Chemistry† - 15 hours.

Additional Sciences - 40 hours.

Humanities and/or Social Sciences - 15 hours.

- c) The educational curriculum described above shall be evaluated as of the date of the awarding of the baccalaureate degree except as provided in subsection (d) ~~below~~. Additional hours required to earn the baccalaureate degree shall provide the laboratory and computer-based experience, the communication skills and the understanding of ethical, social, economic and safety considerations required of an approved engineering program as provided for in Section

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- d) In evaluating the acceptability of an applicant's baccalaureate degree from a ~~basic~~ non-approved engineering program or a related science curriculum ~~of a baccalaureate degree~~, the Board shall consider courses taken to attain a graduate degree in engineering and/or additional course credits in mathematics, science or engineering as education, when the course work of an applicant with a baccalaureate degree fails to satisfy the requirements of subsection (a) or (b) above. Not more than 15 hours may be made up in mathematics and basic sciences. Education considered in this manner shall not also be credited as engineering experience.

- e) The Department, upon the recommendation of the Board, has determined that educational credit leading to a degree in engineering technology does not meet the requirements for a non-approved ~~basic~~ engineering program or a related science curriculum in accordance with this Section.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1380.230 Approved Experience

- a) Each application shall be reviewed by the Board to determine whether the applicant has shown evidence that his/her professional experience meets the requirements for licensure as described in this Section. All experience shall have been acquired after receipt of the baccalaureate degree except as provided in subsections (a)(3) and (4) ~~below~~.

- 1) Credit for one year of experience shall be given for completion of graduate study resulting in a master's degree in engineering, except as credited under Section 1380.220(d).

- 2) Credit for two years of experience shall be given for completion of graduate study resulting in a doctor's degree in engineering. The maximum credit for graduate study shall be 2 years, except as credited under Section 1380.220(d).

- 3) Credit for one year of experience shall be given for a graduate of a university certified cooperative program, which is a supervised industrial or field experience of at least one academic ~~calendar~~ year which alternates with periods of full-time academic training.

- 4) Credit for professional engineering experience earned PRIOR TO receipt of a baccalaureate degree shall be given if the employment ~~experience~~ is full-time and if the applicant takes eight or more years to earn the degree as a part-time student, as provided for in Section 8(b)(2) of the Act.

- 5) Experience shall be under the supervision of a licensed professional engineer or a person legally practicing engineering pursuant to Section 3 of the Act who verifies the number of years

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during which the applicant was doing work at a professional level, and the manner in which the work prepares the applicant for licensure as a professional engineer.

- 6) Credit for all necessary experience or any remaining experience shall only be given for actual experience in the practice of professional engineering. Experience shall be within the definition of the practice as set forth in Section 4(o) of the Act and shall require the application of technical knowledge and professional engineering principles. In at least the last two years of experience, the applicant shall have had primary responsibility for the engineering activities.

- b) While an applicant may receive either experience credit, education credit or both, he/she may not receive more than one year's total credit for any one year (i.e., overlapping experience and education will be credited to one or the other category but not both).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1380.240 Application for Enrollment as an Engineer Intern by Examination

- a) An applicant for enrollment as an Engineer Intern shall file an application on forms supplied by the Department by November 15 for the spring examination or by May 15 for the fall examination. The application shall include:

- 1) Either:
- Completed college certification form showing receipt of a baccalaureate degree from an approved engineering program as set forth in Section 1380.210 of this Part; or
 - Completed college certification form showing receipt of a baccalaureate degree from a non-approved ~~in--basic~~ engineering program or related science curriculum evidenced by an official transcript of educational credit, and verification of at least 4 years of experience on forms, completed by the supervisors.

- i) An applicant shall have acquired the experience required by this Section prior to review by the Board ~~applying to the Department;~~

- ii) Applicants who received their education in a foreign country shall have the education evaluated, at their expense. Applicants shall obtain the forms from the Engineering Credentials Evaluation International (ECEI), 211 East Lombard Street #357, Baltimore, Maryland 21202 ~~National Council of Examiners--for Engineers--(NCEES)--P.O.--Box--1686,--Clemson,--South Carolina--29633-1686.~~ The transcript review required by Section 8 of the Act is separate from the detailed

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institutional review conducted to determine that the curriculum meets the requirements of Section 1380.210. The review of the transcripts by the Board will be to determine equivalency with ~~to~~ the educational requirements of non-approved engineering program ~~Basic Engineering~~ set forth in Section 1380.220(b)(1);

- iii) Applicants who received a related science degree in a foreign country shall have the education evaluated at their expense. The evaluation shall be performed by the American Association of Collegiate Registrars (AACRO), 1 Dupont Circle NW, Suite 370, Washington, DC 20036-1110, telephone (202)296-3359;

- The required fee specified in Section 1380.275;
- For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university;
- A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act;
- Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer-based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1996, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English.

- b) An applicant in an approved engineering program shall be eligible to be seated for the first available Fundamentals of Engineering examination during the 12 months prior to graduation if the applicant provides a certification stating that he/she is expected to graduate by the end of that 12 month period. The applicant shall be allowed to retake the examination during that 12 month period if he/she fails on the first attempt. However, an applicant who passes the Fundamentals of Engineering examination prior to graduation will not be enrolled as an Engineer Intern until the Department has received certification of graduation, as required by subsection (a)(1)(A) ~~above~~. If certification of graduation is not received within one year after the first examination is taken, the results of the examination will be void and the examination will have to be retaken.

- c) Upon receipt of the application and all supporting documentation in complete order:

- Persons with degrees from an approved engineering program will be notified of their eligibility to register for Part I of the

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examination, examination filing deadline and the required examination fee as provided for in Section 1380.275;

2) The files of persons with degrees from a non-approved in-basic engineering program or related science curriculum will be presented to the Board for evaluation of the required experience and education based on the criteria specified in Sections 1380.220 and 1380.230. Once the applications have been approved, those persons will be notified of their eligibility to register for Part I of the examination, examination filing deadline and the required examination fee as provided for in Section 1380.275.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1380.250 Application for Licensure as a Professional Engineer by Examination

- a) Applicant enrolled as an Engineer Intern
- 1) An applicant shall have acquired all experience required by Section 1380.240 prior to review by the Board making application to the Department.
 - 2) An applicant for licensure as a professional engineer who is enrolled as an Engineer Intern shall file an application on forms supplied by the Department by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 8 of the Act, the following:
 - A) Experience verification forms completed by the supervisors, indicating the required 4 years of experience earned. For Engineer Interns enrolled with a degree from a non-approved in-basic engineering program or related science curriculum, experience verification forms shall be completed for the entire 8 years of required experience.
 - B) For persons who were certified or enrolled as an Engineer Intern or Engineer-in-training in another state or territory:
 - i) A certification of such enrollment from the appropriate state board, including the date of the examination.
 - ii) Completed college certification form showing degree received and, if the degree was not received from an approved engineering program, an official transcript of educational credit.
 - iii) Applicants who received their education in a foreign country shall have the education evaluated at their expense. The applicant shall obtain the forms from the Engineering Credentials Evaluation International (ECEI), 211 East Lombard Street #357, Baltimore,

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Maryland 21202 National Council of Examiners for Engineers and Surveyors, P.O. Box 1686, Elmsford, New York 10523-1686. The transcript review required by Section 8 of the Act does not entail the detailed institutional review in order to determine that the curriculum meets the requirements set forth in Section 1380.210. The review by the Board will be to determine equivalency with to the educational requirements of a non-approved engineering program Basic Engineering set forth in Section 1380.220(b)(1). Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1996, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English.

iv) Applicants who received a related science degree in a foreign country shall have the education evaluated at their expense. The evaluation shall be performed by the American Association of Collegiate Registrars (AACRO), 1 Dupont Circle NW, Suite 370, Washington, DC 20036-1110, telephone (202)296-3359.

- C) The required fee specified in Section 1380.275.
 - D) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description of the program, from the university.
 - E) A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.
- 3) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board for evaluation of the required education and experience as specified in Sections 1380.210, 1380.220 and 1380.230. Once the application has been approved, those persons will be notified of their eligibility to register for Part II of the examination, examination filing deadline and the required examination fee as provided for in Section 1380.275.
- b) Applicant not enrolled as an Engineer Intern
- 1) An applicant shall have acquired all experience as required in Section 1380.240 prior to review by the Board making application to the Department.

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- 2) An applicant for registration as a professional engineer who is not enrolled or certified as an Engineer Intern shall file an application on forms supplied by the Department by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 8 of the Act, the following:

- A) Education and Experience:
- i) A degree from an approved Engineering Program. Completed college certification form showing receipt of a baccalaureate degree from an approved engineering program, and completed experience verification forms completed by the supervisors, indicating the required 4 years of experience.
 - ii) A degree from a non-approved in-Basic Engineering Program or Related Science Curriculum. Completed college certification form showing receipt of a baccalaureate degree from a non-approved in-Basic Engineering Program or related science curriculum; an official transcript of educational credit; and completed experience verification forms completed by the supervisors, indicating the required 8 years of experience.
 - iii) Applicants who received their engineering education in a foreign country shall have the education evaluated at their expense. The applicant shall obtain the forms from the Engineering Credentials Evaluation International (ECEI), 211 East Lombard Street #357, Baltimore, Maryland 21202. National Council--of--Examiners-for-Engineers--(NCEE) 77-P-0--Box 16867--Stemson--South--Carolina--29633-1686. The transcript review required by Section 8 of the Act does not entail the detailed institutional review in order to determine that the curriculum meets the requirements set forth in Section 1380.210. The review by the Board will be to determine equivalency to the educational requirements of a non-approved engineering program Basic--Engineering set forth in Section 1380.220(b)(1).
 - iv) Applicants who received a related science degree in a foreign country shall have the education evaluated at their expense. The evaluation shall be performed by the American Association of Collegiate Registrars (AACRO), 1 Dupont Circle NW, Suite 370, Washington, DC 20036-1110, telephone (202)296-3359.
- B) The required fee specified in Section 1380.275.
- C) For an applicant claiming credit for participation in a cooperative program, as described in Section 1380.230(a)(3), certification of such participation with a brief description

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- of the program, from the university.
- D) A complete work history indicating all employment since receipt of a baccalaureate degree. Such work history shall also include any experience earned prior to receipt of a baccalaureate degree pursuant to Section 8(b)(2) of the Act.
 - E) Proof of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer-based test and Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1996, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English.
 - 3) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board for evaluation of education and required experience as specified in Sections 1380.210, 1380.220 and 1380.230. Once the application has been approved, those persons will be notified of their eligibility to register for both Part I and Part II of the examination, examination filing deadline, and the required examination fee as provided for in Section 1380.275.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1380.290 Professional Design Firm

- a) Persons who desire to practice professional engineering in this State in the form of a corporation, professional service corporation, partnership, limited liability company, limited liability partnership, or sole proprietorship (if the sole proprietorship is conducting or transacting business under an assumed name in accordance with the Assumed Business Name Act [805 ILCS 405]) shall, in accordance with Section 23 of the Act, file an application with the Department, on forms provided by the Department, together with the following:
 - 1) For Corporations or Professional Service Corporations. (Registration as a professional design firm shall meet the registration requirements of Section 12 of the Professional Service Corporation Act [805 ILCS 10/12].)
 - A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name of the state and license number for each director who is a licensed design professional.
 - B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the Corporation is organized, whose duty it is to register corporations under

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the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the Secretary of State is also required. The purpose clause of the Articles of Incorporation or certificate of authority shall designate that the corporation is authorized to provide engineering services. Each corporation shall remain active and in good standing with the Secretary of State in order to maintain a professional design firm registration.

C) A signed and dated resolution of the board of directors of the corporation designating a regular full-time employee of the corporation who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in Illinois. The Illinois license number of the professional engineer designated as the managing agent shall also be included in the resolution.

D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the corporation, if applicable.

E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.

2) For Partnerships.

A) General

i) A copy of the signed and dated partnership agreement authorizing the partnership to provide professional engineering services. The agreement shall contain the name of the partnership, its business address and the names of all general partners. The name of the state in which each partner is licensed as a design professional and the license number shall be listed on the application.

ii) A signed and dated resolution of the general partners designating a regular full-time employee of the partnership who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in this State. The license number of the managing agent shall be included in the resolution.

iii) A copy of the partnership documentation bearing the stamp of the county clerk where the partnership has been filed.

iv) A letter or certificate from the county clerk where an assumed name has been filed, if applicable.

B) Limited Partnership

i) A copy of the signed and dated partnership agreement indicating that it has been filed with the Secretary of State authorizing the partnership to provide professional engineering services. The partnership agreement shall contain the name of the partnership, its business address and the name of each partner. The name of the state in

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which each partner is licensed as a design professional and the license number shall be listed on the application.

ii) A signed and dated resolution adopted by the partners designating a full-time employee of the partnership who is an Illinois licensed professional engineer in this State as the managing agent in charge of the engineering services. The Illinois license number of the professional engineer designated as the managing agent shall also be included in the resolution.

iii) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.

iv) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the partnership, if applicable.

3) For Limited Liability Companies or Limited Liability Partnerships.

A) An application containing the name of the limited liability company or partnership, the business address and the members/partners of the company/partnership, the name of the state in which each is licensed and the license number of each design professional who is a member or partner.

B) A signed and dated resolution of the members or partners designating a regular full-time employee of the company who is an Illinois licensed professional engineer as the managing agent in charge of the engineering activities in this State. The license number of the managing agent shall also be included in the resolution.

C) A copy of the operating agreement or partnership agreement filed with the Secretary of State stating the company or partnership is authorized to offer engineering services.

D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the limited liability company or partnership, if applicable.

E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.

4) For Sole Proprietorships with an Assumed Name.

A) An application containing the name of the sole proprietorship and its business address and the name and Illinois license number of the professional engineer who owns and operates the business.

B) A letter or certificate from the county clerk where an assumed name has been filed.

5) A list of all office locations at which the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship provides engineering services.

6) The fee required in Section 1380.275.

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- b) A professional design firm may designate more than one managing agent in charge of professional engineering activities. However, a licensee designated as the managing agent may not serve as a managing agent for more than one corporation, professional service corporation, limited liability company/partnership or partnership doing business in Illinois.
- c) Upon receipt of the above documents and review of the application, the Department shall issue a registration authorizing the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship to engage in the practice of professional engineering or notify the applicant of the reason for the denial of the application.
- d) Each corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship shall be responsible for notifying the Department within 30 days after any changes in:
- 1) The membership of the board of directors, members/partners of the limited liability company/partnership or the general partners;
 - 2) The licensure status of the general partners, members/partners of the limited liability company/partnership or any of the licensed design professional members of the board of directors; and
 - 3) An assumed name.
- e) Each corporation, professional service corporation, limited liability company/partnership or partnership shall be responsible for notifying the Department, in writing, by certified mail, within 10 business days after the termination or change in status of the managing agent. Thereafter, the corporation, professional service corporation, limited liability company/partnership or partnership, if it has so informed the Department, has 30 days to notify the Department of the name and license number of the professional engineer licensed in Illinois who is the newly designated managing agent.
- f) Any failure to notify the Department as required in subsections (d) and (e) or any failure of the corporation, professional service corporation, limited liability company/partnership or partnership to continue to comply with the requirements of Section 23 of the Act will subject the corporation, limited liability company or partnership to the loss of its registration to practice professional engineering in Illinois.
- g) Sole Proprietorships. A sole proprietorship who is conducting or transacting business under the real name of the professional engineer who has an active Illinois license will not be required to file an application and comply with the requirements set forth in this Section. However, if the sole proprietorship operates under an assumed name, the sole proprietor shall file an application in accordance with subsection (a)(4). Any sole proprietorship not owned and operated by an Illinois licensed professional engineer shall be prohibited from offering engineering services to the public.
- h) In addition to the seal requirements in Section 14 #2 of the Act, all

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documents or technical submissions prepared by the design firm shall contain the design firm registration number issued by the Department.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 1380.295 Seal Requirements

Every licensed professional engineer shall have a reproducible seal or facsimile, which may be computer generated, the impression of which shall contain the name, the license number of the professional engineer, and the words "Licensed Professional Engineer of Illinois". A professional engineer shall seal all documents prepared by or under the direct supervision and control of the professional engineer. Any document that bears the name of a professional design firm, rather than bearing the name of the individual licensed professional engineer responsible for the document, shall be deemed an invalid seal. The individual licensee's written signature and date of signing, along with the date of license expiration, shall be placed adjacent to the seal. Computer generated signatures will not be permitted.

(Source: Added at 26 Ill. Reg. _____, effective _____)

Section 1380.296 Acts Constituting the Practice of Professional Engineering Pursuant to Section 4 of the Acta) Design/Build

1) The design/build project delivery process is a method whereby an entity signs a single contract to provide a combination of professional engineering and construction services.

2) The design/build entity will not be required to register as a professional design firm pursuant to Section 23 of the Act only if the services in the design/build project delivery process are provided by the entity in accordance with the following:

- A) A professional engineer licensed or a professional design firm registered in Illinois independently contracts with the entity and participates substantially in all material aspects of the offering and providing of services relating to any bid process, contract negotiations, design, consultation, development, preparation and coordination of technical submissions, and verification of adherence to technical submissions and completion.
- B) At the time of offering services, a written disclosure shall be given to the client by the entity identifying the licensed professional engineer who will be engaged by and is contractually responsible to the entity offering design/build project services.
- C) The entity agrees that the licensed professional engineer

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will have direct supervision of the professional engineering work and the engineering services will not be terminated on the project without immediate replacement by another licensed professional engineer mutually agreed to by the client and the entity.

- 3) A design/build entity shall not offer to provide or provide professional engineering services, unless the design/build entity is an Illinois licensed professional engineer or professional design firm. Offering to provide professional engineering services shall include, but shall not necessarily be limited to, any tender of engineering services either independently or in combination with construction services by any sign, card, advertisement or other device that might indicate to the public that the entity is entitled to provide engineering services.

(Source: Added at 26 Ill. Reg. _____, effective _____)

Section 1380.300 Standards of Professional Conduct

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity in the practice of professional engineering, the following Standards of Professional Conduct shall be binding on every person holding a license **certificate-of-registration** as a professional engineer and on all corporations authorized to practice professional engineering in this State.

- a) Professional Responsibility. Licensees shall be responsive to the needs of clients and employers, but shall hold paramount life, health, property and the welfare of the public.

- 1) Licensees shall at all times recognize that their primary obligation is to protect the life, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the life, health, property or welfare of the public is endangered, they shall notify their client or employer and such authority(ies) as may be appropriate (which may include the Department or other law enforcement agencies).

- 2) Licensees shall approve and seal only those designs prepared by them or under their direct supervision and found to be safe for the public health, property and welfare.

- 3) Licensees shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client, except as authorized or required by law.

- 4) Licensees shall not permit the use of their name or firm's name, nor shall they be associated in business ventures with persons or firms which they have reason to believe to be engaging in fraudulent or dishonest business practices.

- 5) Licensees having knowledge of any alleged violation of any of this Part shall cooperate with the Department, furnishing such

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information or assistance as may be required to conduct an investigation resulting from a complaint.

- b) Competence. Licensees shall perform services only in areas of their competence.

- 1) Licensees shall undertake assignments only when qualified by education and experience in the specific technical field of engineering involved.

- 2) Licensees shall not affix their signature or seal to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared by them or under their direct supervisory control.

- 3) Licensees may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that all other phases of the project will be performed by registrants qualified in those phases.

- c) Professional Integrity. Licensees shall issue professional statements in an objective and truthful manner.

- 1) Licensees shall be completely objective and truthful in all professional reports, statements or testimony.

- 2) Licensees may express publicly a professional opinion on technical subject(s) only when it is founded upon adequate knowledge of the facts and a background of competence in the subject matter.

- 3) A licensee, when acting as a representative of an individual or organization, shall issue no statements, criticisms, or arguments on engineering matters without first prefacing such comments by explicitly identifying on whose behalf the comments will be made. When the licensee is acting as a consultant, expressing a professional opinion, such opinion shall be prefaced by complete personal identification as a consultant, without necessarily naming the client. Such licensee shall reveal any personal interest in the matter.

- d) Conflict of Interest. Licensees shall act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

- 1) Licensees shall conscientiously avoid conflicts of interest with their employers or clients. Whenever conflicts of interest appear unavoidable; however, licensees shall disclose promptly to their employers or clients any business association, interest or circumstance which may influence judgment or quality of services.
- 2) Licensees shall not accept compensation, financial or other, from more than one party for services on a project or for services pertaining to a project unless the licensee makes full disclosure and receives consent of all interested parties.

- 3) Licensees shall not solicit or accept financial or other valuable consideration from any material supplier or equipment supplier for specifying the supplier's products except when the licensee

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is a known employee or agent of the supplier.

- 4) Licensees shall not solicit or accept gratuities, directly or indirectly, from any contractor, architect, engineer or other party dealing with the licensee's employer or client in connection with work for which the licensee is responsible.
- 5) Licensees in public service as members, advisors or employees of a governmental body or department shall not participate in decisions with respect to professional services solicited or provided by them or their organization.
- 6) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their firm or organization serves as a member.
- e) Employment Solicitation. Licensees shall avoid improper solicitation of professional employment.
 - 1) Licensees shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure professional assignments.
 - 2) Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent or purpose of enhancing their qualifications and/or their work.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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Section 1380-APPENDIX A Significant Dates for the Administration of Section 19 of the Act - Endorsement

- a) July 20, 1945. The Illinois Professional Engineering Act became effective on July 20, 1945. Prior to that date, there was no legal requirement in Illinois governing the practice of Professional Engineering or requiring registration of engineers.
- b) July 20, 1946. That date terminated registration under the "Grandfather Clause," which exempted Illinois residents engaged in the practice of Professional Engineering from examination, unless affected by service in the armed forces of the United States including the Merchant Marine. Thereafter, full examination was required except as indicated under subsections (c) and (d)-below.
- c) November 20, 1946. Prior to that date, graduates of approved engineering curricula with 4 or more years of professional engineering experience were eligible for registration by examination of their record of education, experience, and substantiating evidence. Written examination was not required.
- d) July 20, 1950. Prior to that date, graduates of approved engineering curricula with 4 or more years of professional engineering experience were required to take only Part II of the written examination for registration.
- e) Applicants originally licensed in New York or Pennsylvania prior to January 1, 1965, shall have their twelve-hour examination accepted for endorsement based on prior agreement.
- f) January 1, 1974. Prior to that date, an EIT applicant was eligible for examination upon proof of at least 4 years of study, training and experience.
- g) January 1, 1978. Prior to that date, an applicant who qualified with 8 years of combined education and experience would be admitted to the full examination.
- h) January 1, 1990 to January 1, 1994. An applicant seeking waiver of the fundamentals of engineering examination pursuant to Section 12(c) of the Act shall hold a doctoral degree from a graduate engineering program approved in accordance with Section 1380.210(f) and shall have demonstrated a broad knowledge of the fundamentals of engineering by successfully completing course work including 10 of the following subjects:
 - 1) Calculus
 - 2) Differential Equations
 - 3) Chemistry
 - 4) Physics
 - 5) Statics Statistics
 - 6) Dynamics
 - 7) Materials Science or Structure of Matter
 - 8) Mechanics of Materials
 - 9) Electrical Circuits
 - 10) Fluid Mechanics

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- 11) Thermodynamics
12) Engineering Economics
i) January 1, 1996. Proof of completion of the Test of English as a Foreign Language (TOEFL) with a score of 550 and Test of Spoken English (TSE) with a score of 50 for all applicants applying who graduated from an engineering program outside the United States or its territories and whose first language is not English.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Medical Payment
2) Code Citation: 89 Ill. Adm. Code 140
3) Section Numbers: Proposed Action:
140.462 Amendment
140.463 Amendment
140.466 Repeal
4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000.
5) Complete Description of the Subjects and Issues Involved: These proposed amendments affecting Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are required by the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000. The Act amends section 1902 of the Social Security Act to establish a new prospective payment system concerning Medicaid reimbursement for FQHCs and RHCs that is calculated according to a two year average as reflected in cost reports.

Section 703 of the Act calls for the new prospective payment system, which is based on the allowable per visit cost of the center or clinic averaged over fiscal years 1999 and 2000. That figure is then indexed forward by the percentage increase in the Medical Expenditure Index (as defined in section 1842(I)(3) of the Social Security Act) to become the per visit payment amount for each fiscal year. The computation is also adjusted each year to reflect any increase or decrease in the center's or clinic's scope of service.

The Department anticipates an annual expenditure increase of approximately \$2.5 million on the basis of these proposed amendments.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
7) Does this rulemaking contain an automatic repeal date? No
8) Do these proposed amendments contain incorporations by reference? No
9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.11	Amendment	July 6, 2001 (25 Ill. Reg. 8098)
140.445	Amendment	June 29, 2001 (25 Ill. Reg. 7808)
140.447	Amendment	June 29, 2001 (25 Ill. Reg. 7808)
140.490	Amendment	October 5, 2001 (25 Ill. Reg. 12536)

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- 140.491 Amendment October 5, 2001 (25 Ill. Reg. 12536)
 140.492 Amendment October 5, 2001 (25 Ill. Reg. 12536)
 140.493 Amendment October 5, 2001 (25 Ill. Reg. 12536)
 140.494 New Section October 5, 2001 (25 Ill. Reg. 12536)
 140.513 Amendment August 24, 2001 (25 Ill. Reg. 10672)
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
 Office of the General Counsel, Rules Section
 Illinois Department of Public Aid
 201 South Grand Avenue East, Third Floor
 Springfield, Illinois 62763-0002
 (217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph, Tenth Floor, Chicago, Illinois, and the Office of the Secretary, Illinois Department of Human Services, 401 South Clinton, Seventh Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

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- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These proposed amendments will affect federally qualified health centers (FQHCs) and rural health clinics (RHCs).
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: July 2001

The full text of the proposed amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section	
140.1	Incorporation By Reference
140.2	Medical Assistance Programs
140.3	Covered Services Under Medical Assistance Programs
140.4	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under General Assistance
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8	Medical Assistance For Qualified Severely Impaired Individuals
140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section	
140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
140.15	Recovery of Money
140.16	Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submission of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited

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140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice
140.72	Voucher Advance Payment and Expedited Payments
140.73	Drug Manual (Recodified)
	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)

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140.361 Non-Participating Hospitals (Recodified)
140.362 Pre July 1, 1989 Services (Recodified)
140.363 Post June 30, 1989 Services (Recodified)
140.364 Prepayment Review (Recodified)
140.365 Base Year Costs (Recodified)
140.366 Restructuring Adjustment (Recodified)
140.367 Inflation Adjustment (Recodified)
140.368 Volume Adjustment (Repealed)
140.369 Groupings (Recodified)
140.370 Rate Calculation (Recodified)
140.371 Payment (Recodified)
140.372 Review Procedure (Recodified)
140.373 Utilization (Repealed)
140.374 Alternatives (Recodified)
140.375 Exemptions (Recodified)
140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391 Definitions (Recodified)
140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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140.400 Payment to Practitioners, Nurses and Laboratories
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140.412 Services Not Covered By Physicians
140.413 Limitation on Physician Services
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140.416 Optometric Services and Materials
140.417 Limitations on Optometric Services
140.418 Department of Corrections Laboratory
140.420 Dental Services
140.421 Limitations on Dental Services
140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
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140.428 Chiropractic Services

140.429 Limitations on Chiropractic Services (Repealed)
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140.458 Prior Approval for Therapy Services
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140.462 Covered Services in Clinics
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140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
140.465 Speech and Hearing Clinics (Repealed)
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill.

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Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended

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at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.914 and 140.916 Table I reclassified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.206 and 147.207 Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 reclassified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 reclassified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 reclassified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 reclassified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5965, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990,

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for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17

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Ill. Reg. 7004, effective May 17, 1993; expeditious correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a

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maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 1436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.462 Covered Services in Clinics

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-Based Organized Clinics ~~based-organized-clinics~~
 - 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (a) below, as appropriate.
 - 2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148. Encounter Rate Clinics ~~rate-clinics~~
- b) Encounter Rate Clinics ~~rate-clinics~~
 - 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.
 - 2) With respect to all other encounter rate clinics, covered services are medical services which provide for the continuous health care needs of persons who elect to use this type of service.
- c) Rural Health Clinics ~~health-clinics~~

Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:

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- 1) Physician's services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants.
- 2) Other services for which a separate encounter may be billed include dentist and behavioral health services defined as clinical psychologist or clinical social worker services.
- 3) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these ~~as-an-incident-to-a-physician's professional~~ services include:
- A) medical case management;
 - B) laboratory services;
 - C) occupational therapy;
 - D) patient transportation;
 - E) pharmacy services;
 - F) physical therapy;
 - G) podiatric services;
 - H) speech and hearing services;
 - I) x-ray services;
 - J) health education;
 - K) nutrition services;
 - L) optometric services.
- 4) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service provided.
- 5) Any services that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.
- 6) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services.
- d) Federally Qualified Health Centers
Those core covered services for which the ~~are-the-following-services-when-delivered-in-a-clinic-or-center-may-bill-an-encounter-setting-as-described-in-42-CFR-440.90-(2000)-are-as-follows-(1989):~~
- 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants;~~and~~
 - 2) Other services for which separate encounters may be billed include dentists and behavioral health services defined as clinical psychologists or clinical social worker services.
 - 3) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of

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- licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include, ~~including:~~
- A) medical case management;
 - B) laboratory services;
 - C) occupational therapy;
 - D) patient transportation;
 - E) pharmacy services;
 - F) physical therapy;
 - G) podiatric services ~~for-persons-under-21-years-of-age;~~
 - H) optometric services ~~psychological-services;~~
 - I) ~~services--required--to-be-provided-by-Section-329-330-or-340 of-the-Public-Health-Service-Act,~~
 - J) speech and hearing services;
 - K) x-ray services;
 - L) health education;
 - M) ~~dental-services-for-persons-under-21-years-of-age-and~~ nutrition services.
 - N) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service.
 - 5) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.
 - 6) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided.
 - e) Maternal and Child Health Clinics
Payment shall be made to the Maternal and Child Health Clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:
 - 1) In the case of clinics described in Sections 140.461(f)(1)(A) and 140.461(f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:
 - A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
 - B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;
 - C) Regular immunizations for the prevention of childhood diseases;
 - D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;
 - E) Routine prenatal care, including risk assessment, for pregnant women; and

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- F) Specialty care as medically needed.
- 2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are not necessarily limited to:
- Prenatal care, including risk assessment (one risk assessment per pregnancy);
 - All ambulatory treatment services deemed medically necessary, recommended, or prescribed by a physician as the result of the assessment; and
 - Services to pregnant women with diagnosed substance abuse or addiction problems.
- 3) In the case of clinics described in Section 140.461(f)(1)(D):
- Comprehensive medical and referral services.
 - Primary care services, which must include, but are not necessarily limited to:
 - early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
 - regular immunizations for the prevention of childhood diseases; and
 - follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the result of an EPSDT screening.
 - Pediatric specialty services, which must include, at a minimum, necessary treatment for:
 - asthma,
 - congenital heart disease,
 - diabetes, and
 - sickle cell anemia.
 - Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.
- f) School Based/Linked Health Clinics (Centers)
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(g):
- Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.
 - Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth

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control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 140.463 Clinic Service Payment**a) Definitions**

"Behavioral Health Services", for the purposes of this Section, means services provided by a licensed clinical psychologist or licensed clinical social worker.

"Center", for the purposes of this Section, means both a federally qualified health center and a rural health clinic.

"Federally Qualified Health Center" (FQHC) means a health care provider that receives a grant under Section 330 of the Public Health Service Act (Public Law 78-410) or has been determined to meet the requirements for receiving such a grant by the Health Resources and Services Administration, U.S. Department of Health and Human Services.

"Rural Health Clinic" (RHC) means a health care provider that has been designated by the Public Health Service, U.S. Department of Health and Human Services, or by the Governor, and approved by the Public Health Service, in accordance with the Rural Health Clinics Act (Public Law 95-210) to be an RHC.

b) Reimbursement

The Center will be reimbursed under a prospective payment system for 100 percent of the average of the costs that are reasonable and related to the cost of furnishing such services by the Center in accordance with the provisions of federal law (42 USC 1396a(aa)). Baseline payment rates will be determined individually for each enrolled Center. Once determined, the baseline payment rate will be adjusted annually using the Medicare Economic Index (MEI). Payment for services provided on or after January 1, 2001, shall be made using specific rates for each Center as specified in this Section.

1) Baseline Payment Rates

A) For each Center, the Department will calculate a baseline medical encounter rate and, for each Center that is enrolled with the Department to provide Behavioral Health Services or dental services, the Department will calculate a baseline Behavioral Health Services or dental encounter rate, using the methodology specified in this subsection (b). The cost basis for the baseline rates shall be drawn from individual Center cost reports for Center fiscal years ending in 1999

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and 2000 or, in the instance of a Center that did not operate during the entirety of those periods, cost reports that cover the portions of those periods during which the Center was in operation.

B) The baseline payment rates shall be based upon allowable costs, reported by the Center, that are determined by the Department to be reasonable and efficient. The method for determining allowable cost factors is similar to that used for Medicare (42 USC 1395g), with the following significant differences. The Department's methodology shall:

- i) Consider costs associated with services not covered under Medicare (e.g., patient transportation, medical case management, health education, nutritional counseling).
- ii) Apply reasonable constraints on allowable cost, as described in subsection (b)(10) of this Section.
- iii) Apply reasonable constraints on the total cost per encounter.

C) The baseline payment rates for a Center shall be the average (arithmetic mean) of the annual reasonable costs per encounter, calculated separately for each of the fiscal years for which cost report data must be submitted using the methodology specified in subsections (b)(2), (3) and (4) of this Section for the medical encounter rate, dental encounter rate, and Behavioral Health Services encounter rate, respectively.

2) Annual Reasonable Cost Per Medical Encounter

A) The annual reasonable cost per medical encounter shall be the lesser of:

- i) The annual cost per encounter, as calculated in subsection (b)(2)(D) of this Section; or
- ii) The reasonable cost of providing a medical encounter, which shall be 105 percent of the Statewide median of the calculated annual costs per encounter for FQHCs or RHCs, as the case may be.

B) The core services component.

The core services component is the sum of the following two components:

- i) The allowable direct cost per encounter, which is the quotient of the allowable direct cost, as defined in subsection (b)(1)(B) of this Section, for core services divided by the greater of the number of encounters reported by direct staff (e.g., staff specified in subsection (b)(10)(A) and, for the determination of encounter payment rates effective prior to January 1, 2002, subsection (b)(10)(C)); or the number of encounters resulting from the application of the minimum efficiency standards found

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in subsections (b)(10)(A) and (b)(10)(C); and
ii) The allowable overhead cost per encounter, which is the product of the allowable direct cost per encounter multiplied by the Center's allowable overhead rate factor.

C) Supplemental services component.

The supplemental services component is the sum of the following two components:

- i) The allowable supplemental cost per encounter, which is the quotient of the cost of services (e.g., pharmacy, patient transportation, medical case management, health education, nutritional counseling), excepting core services, dental services and, effective January 1, 2002, Behavioral Health Services, provided by the Center, divided by the greater of the number of encounters reported by direct staff; or the number of encounters resulting from application of the minimum productivity standards found in subsections (b)(10)(A) and (b)(10)(C) of this Section; and
- ii) The allowable overhead cost per encounter, which is the product of the allowable supplemental cost per encounter multiplied by the Center's allowable overhead rate factor.

D) Annual cost per encounter.

The annual cost per medical encounter is the sum of the core services component, as determined in subsection (b)(2)(B) of this Section, and the supplemental services component, as determined in subsection (b)(2)(C).

3) Annual Reasonable Cost Per Dental Encounter

A) The annual reasonable cost per dental encounter shall be the lesser of:

- i) The annual cost per encounter, as calculated in subsection (b)(3)(B) of this Section; or
- ii) The reasonable cost of providing a dental encounter, which shall be 105 percent of the Statewide median of the calculated annual costs per encounter for FQHCs or RHCs, as the case may be.

B) Annual cost per encounter.

The annual cost per encounter is the sum of the following two components:

- i) The allowable direct cost per encounter, which is the quotient of the allowable direct dental cost, as defined in subsection (b)(1)(B), divided by the greater of the number of encounters reported by direct dental staff; or the number of encounters resulting from the application of the minimum efficiency standard found in subsection (b)(10)(B); and
- ii) The allowable overhead cost per encounter, which is

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the product of the allowable direct cost per encounter multiplied by the Center's allowable overhead rate factor.

- 4) Annual Reasonable Cost Per Behavioral Health Service Encounter Effective for services provided on or after January 1, 2002, a separate annual reasonable cost per Behavioral Health Service encounter shall be determined.

A) The annual reasonable cost per Behavioral Health Service encounter shall be the lesser of the following:

- i) The annual cost per encounter, as calculated in subsection (b)(4)(B) of this Section.
- ii) The reasonable cost of providing a Behavioral Health Service encounter, which shall be 105 percent of the Statewide median of the calculated annual cost per encounter for FQHCs or RHCs, as the case may be.

B) Annual cost per encounter.

The annual cost per encounter is the sum of the following two components:

- i) The allowable direct cost per encounter, which is the quotient of the allowable direct cost for Behavioral Health Services, as defined in subsection (b)(1)(B) of this Section, divided by the greater of the number of encounters reported by direct behavioral health staff; or the number of encounters resulting from the application of the minimum efficiency standard found in subsection (b)(10)(C); and
- ii) The allowable overhead cost per encounter, which is the product of the allowable direct cost per encounter multiplied by the Center's allowable overhead rate factor.

- 5) For any individual eligible under the medical assistance programs, a Center may bill only one medical encounter, one dental encounter, and one behavioral health encounter per day. A Center will be reimbursed for a service only if it has enrolled with the Department to provide that service.

- 6) Claims submitted to the Department must identify all services provided during the encounter.

7) Cost Basis

Each Center must annually complete a cost report, in a format specified by the Department, for the Center's fiscal year. Each FQHC must also annually submit a copy of financial statements audited by an independent Certified Public Accountant. The cost report and audited financial statements must be filed with the Department within 180 days after the close of the Center's fiscal year, except for cost reports and audited financial statements for Center fiscal years 1999 and 2000 which, in the case of FQHCs, must be filed with the Department no later than November 30, 2001, and in the case of RHCs, must be filed no later than

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March 30, 2002. Except for the first year during which the Center begins operations, the cost report must cover a full fiscal year ending on June 30 or other fiscal year that has been approved by the Department. Payments will be withheld from any Center that has not submitted the cost report by the applicable filing date, and no payments will be made until such time as the reports or audited statements are received and approved by the Department.

- 8) Establishment of Initial Year Payment Amount for a New Center For any Center that begins operation on or after January 1, 2001, the payment rate per encounter shall be the median of the payment rates per encounter of neighboring FQHCs or RHCs with similar caseloads, as determined by the Department. If the Department determines that there are no such comparable Centers, then the rate per encounter shall be the median of the payment rates per encounter Statewide for all FQHCs or RHCs, as the case may be.

9) Rate Adjustments

A) Initial rate determinations.

- i) On or about January 1, 2002, the Department shall determine the medical and dental encounter rates for each participating FQHC. These rates shall be paid for services provided on or after January 1, 2001. Claims submitted and adjudicated prior to the entry of these rates into the Department's claims processing system shall be reconciled for each affected FQHC.

ii)

- i) On or about January 1, 2003, the Department shall determine the medical and dental encounter rates for each participating RHC. These rates shall be paid for services provided on or after January 1, 2001. Claims submitted and adjudicated prior to the entry of these rates into the Department's claims processing system shall be reconciled for each affected RHC.

B) Annual adjustment.

- i) Beginning January 1, 2002, and annually thereafter, except as specified in subsection (b)(9)(B)(ii) of this Section, the Department will adjust baseline rates by the most recently available MEI. The adjusted rates shall be paid for services provided on or after the date of adjustment.

ii)

- i) In the instance of a Center that provided Behavioral Health Services prior to January 1, 2002, for the purpose of applying the January 1, 2002, adjustment by the most recently available MEI, the baseline medical services encounter rate applicable for services provided from January 1, 2001, through December 31, 2001, shall be redetermined after removal of costs and encounters attributable to Behavioral Health Services.

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C) Scope of service adjustment.

If a Center significantly changes its scope of services, the Center may request that new baseline encounter rates be determined. Adjustments to encounter rates will be made only if the change in the scope of services results in the inclusion of Behavioral Health Services or dental services or a difference of at least five percent from the Center's current rate. The Department may initiate a rate adjustment, based on audited financial statements or cost reports, if the scope of services has been modified to include Behavioral Health Services or dental services or would otherwise result in a change of at least five percent from the Center's current rate.

10) Reasonable Cost Considerations

The following minimum efficiency standards will be applied to determine reasonable cost:

- A) Medical direct care productivity.
The Center must average 4,200 encounters annually per full-time equivalent (FTE) for physicians and 2,100 encounters per FTE for mid-level health care staff (i.e., physician assistants, nurse practitioners, specialized nurse practitioners and nurse midwives).

B) Dental direct care productivity.

The Center must average 1.5 encounters per hour per FTE for dentists.

C) Behavioral health direct care productivity.

The Center must average 4,200 annual encounters per FTE for licensed clinical psychologists and licensed clinical social workers.

D) Guideline for non-physician health care staff.

The maximum ratio of staff is four FTE non-physician health care staff for each FTE staff subject to the direct care productivity standards in subsections (b)(10)(A) and (B) of this Section.

E) Allowable overhead.

The maximum Medicaid allowable overhead cost is 35 percent of allowable total cost.

11) Adjustments for Medical Services Paid for by a Managed Care Organization (MCO)

The Department shall make payment adjustments to a Center if it provides care through a contractual arrangement with a Medicaid MCO and is reimbursed an amount, reported to the Department, that is less than the minimum payment required in 42 USC 1396a(aa). The amount of any such payment adjustment shall be at a fixed annual rate as determined by the Department. For each Center so eligible, a payment adjustment shall take into consideration the total payments made by the MCO to the Center (including all payments made on a service-by-service, encounter or capitation

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basis). In the event that Center cost data related to MCO services are unavailable to the Department, an estimate of such costs may be used that takes into consideration other relevant data. Adjustments will be made, at least quarterly, only for Medicaid eligible services. All such services must be defined in a contract between the Center and the MCO. Such contracts must be made available to the Department.

12) Audits

All cost reports will be audited by the Department. The Center will be advised of any adjustment resulting from these audits.

13) Alternate Payment Methodology for Government-Operated Centers

- A) A Center operated by a State or local government agency may elect to be reimbursed under the alternate payment methodology described in this subsection (b)(13).

B) The State or local government agency shall enter into an interagency or intergovernmental agreement, as appropriate, with the Department that specifies the responsibilities of the two parties with respect to services provided by the Center and the funding of those services.

C) The Center operated by a State or local government agency shall be reimbursed by the Department on a per encounter basis according to the provisions of subsections (b)(1) through (11) of this Section.

D) The State or local government agency shall certify the expenditure of public funds in excess of reimbursement received from the Department, under subsection (b)(13)(C) of this Section, and any reimbursement from other payers (e.g., an insurance company, a managed care organization) for services provided to individuals eligible for medical assistance programs administered by the Department, provided the funds were not derived from a federal funding source or were not otherwise used as a State or local match for federal funds. The certification shall be in the form and format specified by the Department. The certification shall be filed within 30 days after the submission of the annual cost report. The certification shall compare expenditures within that cost reporting period to payments received or receivable for that same period.

E) The certified expenditures shall be used by the Department to claim federal financial participation. Federal funds resulting from the claiming of the certified expenditures shall be distributed, according to the provisions of the agreement referenced in subsection (b)(13)(B) of this Section, to the State or the government agency that operates the Center that provided the services.

14) Alternate Payment Methodology for Certain Qualifying Centers

- A) No later than 30 days after the initial rate determination specified in subsection (b)(9)(A) of this Section, the

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Department shall determine the eligibility of each Center for this alternative payment methodology. A Center will qualify for this alternative payment methodology if the Department's estimate of the total amount to be paid to the Center for services provided during the 12-month period ending December 31, 2001, under the reimbursement policy and rates in effect prior to the initial rate determination, is greater than the total amount that will be paid for those same services under the initial rates. The Department shall notify each qualifying Center, in writing, of the result of this determination.

B) A qualifying Center may, for services provided from January 1, 2002, through December 31, 2002, elect to be reimbursed under the alternate payment methodology described in this subsection (b)(14). A qualifying Center must notify the Department, in writing, no later than 30 days after the date of the written notification from the Department, of its election to be reimbursed under this alternative payment methodology.

C) A Center electing this alternative payment system shall be reimbursed by the Department on a per encounter basis according to the provisions of subsections (b)(1) through (11) of this Section, except the medical encounter payment rate shall be increased by an amount equal to twice the quotient resulting from the Department's estimate of the difference between the total amount to be paid to the Center for services provided during the 12-month period ending December 31, 2001, under the initial rates as determined in subsection (b)(9)(A); and the total amount that would have been paid under the payment rates in effect prior to the initial rate determination, divided by the Department's estimate of total medical encounters during the 12-month period ending December 31, 2001.

15) Alternate Behavioral Health Payment Methodology for Certain Qualifying Centers

Centers that are certified by the Department of Human Services, Office of Mental Health, or the Department of Children and Family Services to provide Behavioral Health Services may elect an alternate payment methodology for their Behavioral Health Services. An election of this alternate payment methodology will allow the Centers to be reimbursed under the provisions of 59 Ill. Adm. Code 132 for Behavioral Health Services provided. A qualifying Center must notify the Department in writing, no later than 30 days after the date of the written notification from the Department, of its election to be reimbursed under this alternate payment methodology.

16) All service sites operated by a Center shall be reimbursed using the Center's established encounter rates, except in the instance

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where the site submitted separate cost reports for fiscal years ending in 1999 and 2000 and separate baseline rates were determined for the site.

a) Hospital-Based-Organized-Clinics
1) With-respect-to-those-hospital-based-organized-clinics-that-qualify-as-Maternal-and-Child-Health-clinics-as-described-in-Section-140-461(f)(1), payment-shall-be-in-accordance-with-Section-140-930.

2) With-respect-to-all-other-hospital-based-organized-clinics, payment-shall-be-in-accordance-with-89-III-Adm-Code-140-140.

b) Encounter-Rate-Clinics

1) For-encounter-rate-clinics-providing-comprehensive-health-care-for-women-and-infants-or-encounter-rate-clinics-operated-by-a-county-with-a-population-of-over-three-million, payment-shall-be-made-at-the-lesser-of:
A) \$50-per-encounter; or
B) The-clinic's-charge-to-the-general-public;

2) For-all-other-encounter-rate-clinics, payment-shall-be-made-at-the-lesser-of:
A) The-clinic's-approved-all-inclusive-interim-per-encounter-rate-as-of-May-17, 1981;
B) \$50-per-encounter; or
C) The-clinic's-charge-to-the-general-public;

c) Federally-Qualified-Health-Centers-(FQHC)
1) Medical-Encounter-Rate
A) Payment-for-services-rendered-after-March-31-1990, shall-be-made-at-an-individual-all-inclusive-prospective-per-diem-rate-calculated-on-the-basis-of-the-Department's-encounter-rate-methodology-and-audited-provider-fiscal-information-reported-on-the-Medicaid-Freestanding-Federally-Funded-Health-Center-Worksheet-(Health-Care-Financing-Administration-Form-242), as-supplemented-by-FQHC-Medicaid-Supplemental-Schedules-A7-B-and-G-reflecting-the-actual-costs-of-delivering-encounter-services-as-listed-in-Section-140-462(d)(2);

B) All-cost-reports-will-be-audited-by-the-Department-to-determine-allowable-costs-for-rate-setting-The-provider-will-be-advised-of-any-adjustments-resulting-from-these-audits;

C) New-rates-effective-each-July-1-will-be-based-on-certified-cost-information-from-the-provider's-most-recently-audited-fiscal-year;

B) Allowable-costs-will-be-updated-to-the-midpoint-of-the-rate-year-by-an-inflation-factor-derived-from-published-economic-indices;

B) Interim-payment-for-covered-services-rendered-by-FQHCs-entitled-as-of-March-31-1990-for-which-no-audited-costs-are-available-shall-be-made-at-the-individual-FQHC-rate-in

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- effect on March 31, 1990, as established by the Department. Payment for covered services rendered by RHGs enrolled between March 31, 1990, and January 1, 1991, shall be made at the higher of:
- 1) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Centers or Federally Funded Health Center Services; or
 - 2) the 75th percentile of the statewide range of the Department's established encounter clinic rates (as defined in subsection (a) of this Section as of March 31, 1990).
- 6) Payment shall be made at the interim rate to RHGs enrolled before January 1, 1991, for covered services rendered from the later of the date of enrollment or April 1, 1990, until the certified date of provider receipt of the cost-based rate established by the Department for that provider.
- 7) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(1)(A) of this Section, the Department shall reconcile interim payments made for covered services:
- 1) Rate retroactivity from April 1, 1990, will only apply to clinics enrolled as of March 31, 1990, which submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as Federally Qualified.
 - 2) If the cost-based rate is higher than the interim rate, the Department shall pay the provider the rate differential for each claim paid at the interim rate.
 - 3) If the cost-based rate is lower than the interim rate, the provider shall refund to the Department the rate differential for each claim paid at the interim rate, either by direct payment to the Department or as a credit applied against future service claims.
- 8) Interim payment for covered services rendered by RHGs enrolled on or after January 1, 1991, shall be made at the higher of:
- 1) the provider's approved Medicare rate established by the designated federal intermediary for Rural Health Centers and Federally Funded Health Centers Services; or
 - 2) the median of the statewide range of the Department's established cost-based RHG rates in effect at the time of enrollment.
- 9) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered services rendered between the date of enrollment and 30 days after the date of Department receipt of the complete and correct

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- cost report of the provider. Payment for covered medical services rendered by the provider 90 days after Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's RHG rate methodology.
- 10) If the RHG has not submitted the required audited fiscal information on the forms specified in subsection (c)(1)(A) of this Section within 90 days after the certified date of receipt of the forms, the Department may suspend payment for covered medical services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.
- 11) Enrolled RHGs which have been in operation less than one year and have no audited cost history must submit required audited fiscal information reflecting the first six months of operation on the forms specified in subsection (c)(1)(A) of this Section within 90 days after the later of the end of the sixth month of operation or the certified mail date of receipt of the forms. The rate calculated from these costs will be in effect for services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.
- 12) The Department will not process a claim for payment of RHG services rendered after June 30, 1990, that does not indicate all individual medical services delivered during the encounter by procedure code:
- 2) Dental Encounter Rate
- 1) Payment for dental services rendered after March 31, 1990, shall be made at an individual all-inclusive prospective per diem rate calculated on the basis of the Department's encounter rate methodology and audited provider fiscal information reported on the Medicaid Preexisting Federally Funded Health Center Worksheet (Health Care Financing Administration Form 2427) as supplemented by RHG Medicaid supplemental Schedules A, B, and C reflecting the actual costs of delivering dental services.
 - 2) Direct costs related to operation of the clinic in order to provide allowable dental services will be reported on the cost report and used in the rate calculation process.
 - 3) All cost reports will be audited by the Department to determine allowable costs for rate setting. The provider will be advised of any adjustments resulting from these audits.
 - 4) New rates effective each July 1 will be based on certified cost information from the providers most recently audited fiscal year.

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- E) Allowable costs will be updated to the mid-point of the rate year--by an inflation factor derived from published economic indices.
- F) Payment for covered dental services shall be made by the Department's prepaid dental service contractor.
- G) When an individual cost-based rate has been established by the Department in accordance with the method described in subsection (c)(2)(A)--of this Section--the Department's prepaid dental service contractor shall reconcile interim payments made for covered dental services.
- H) Rate retroactivity will only apply to clinics enrolled as of March 31, 1990, that submit an application to the Public Health Service for Federally Qualified Health Center status by November 1, 1990, and are subsequently designated as federally qualified:
- i) If the cost-based rate is higher than the interim rate--the Department's prepaid dental service contractor shall pay--the provider--the differential for each claim paid at the interim rate.
- ii) If the cost-based rate is lower than the interim rate--the provider shall refund to the Department the differential for each claim paid at the interim rate.
- iii) Interim payment for covered dental services--rendered by PHEs enrolled on or after January 1, 1991, shall be made at the median of the statewide range of the Department's established cost-based PHE dental rates in effect at the time of enrollment.
- iv) Payment shall be made at the interim rate for Centers enrolled on or after January 1, 1991, for covered dental services rendered between the date of enrollment and 30 days after the date of the Department receipt of the complete and correct cost report of the provider. Payment for covered dental services rendered by the provider after 30 days following Department receipt of the provider's complete and correct cost report will be made at the rate determined on the basis of the submitted cost report and the Department's PHE rate.
- I) If the PHE has not submitted the required audited fiscal information on the forms specified in subsection (c)(2)(A) of this Section within 90 days after the certified mail date of receipt of the forms, the Department's prepaid dental service contractor shall suspend payment for covered dental services until the required information is received by the Department, unless the enrolled Center has been in operation less than one year and has no audited cost history.
- J) Enrolled PHEs which have been in operation less than one year and have no audited cost history must submit--required audited fiscal information reflecting the first six months

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- of operation on the forms specified in subsection (c)(2)(A) of this Section within 90 days after the later of the end of the sixth month of operation or the certified date of receipt of the forms. The rate calculated from these costs will be in effect for dental services rendered on and after the first day of the month following the month of receipt of the required fiscal information by the Department.
- B) Effective for the rate year beginning July 1, 1997 encounter rates for dental services shall be capped at \$62.31 per encounter--for each subsequent rate year--this dental encounter rate cap will be adjusted, based on the most recently available Medicare Economic Index.
- C) Rate Appeals Process
- 1) All appeals of audit adjustments or rate determinations must be submitted in writing to the Department. Appeals must be submitted within 60 calendar days after the rate notification of such adjustment or rate determinations. If upheld, the revised audit adjustment or rate determination shall be made effective as of the beginning of the rate period year. The effective date of all other upheld appeals shall be the first day of the month following the date the completed appeal was submitted. Appeals for any rate year must be filed before the close of the rate year.
- 2) To be accepted for review, the written appeal shall include the following:
- A) The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal.
- B) A clear, concise statement of the basis for the appeal.
- C) A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement.
- iv) A citation to any mandated or contractual requirement pertinent to the appeal and
- D) A statement by the Center's provider's chief executive officer or financial officer that the application of the rate appeal and information contained in the Center's vendor's reports, schedules, budgets, books, and records submitted are true and accurate.
- 3) Rate Appeals may be considered for the following reasons:
- A) Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.
- B) Mechanical or clerical errors committed by the Department in auditing historical expenses as reported and/or in calculating reimbursement rates.

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- iii) The Department and the provider have entered into a written agreement to amend, alter, or modify substantive programmatic or management procedures attendant to the delivery of services which have a substantial impact upon the costs of service delivery.
- iv) Substantial treatment service charges are required as a result of mandated regulatory changes.
- v) Substantial changes in the physical plant are required as a result of mandated licensure requirements. In such instances, the provider must submit a plan of corrections for capital improvements approved by the licensing authority, along with the required cost information.
- vi) State and/or Federal regulatory requirements have generated a substantial increase in allowable costs.

4)B) The Department shall rule on all appeals within 120 calendar days after receipt of the complete appeal, except that, if additional information is required from the facility, the period shall be extended until such time as the information is provided.

5)B) Appeals shall be submitted to the Department's Office of Health Finance, 1001 North Walnut Street Bureau of Comprehensive Health Services, 201 Grand Avenue East, Concourse, Springfield, Illinois 62763-0001.

d) Maternal and Child Health Clinics: Payment shall be made in accordance with Section 140-930.

e) Certain Payments for FQHCs and Certain Encounter Rate Clinics
 Payments for managing the health care needs of certain clients under their care beginning December 1996. Certain clinics will be eligible to receive transitional payments for the month of December 1996 and monthly thereafter under the conditions described in this subsection. To receive monthly transitional payments, clinics must:

- A) be either:
- i) a Federally Qualified Health Center as defined in Section 140-462(d) or
 - ii) an Encounter Rate Clinic as defined in Section 140-462(b) that has provided comprehensive health services to Medicaid clients prior to December 1996
- B) have a signed transitional payment contract with the Department; and
- C) have a contract with a Health Maintenance Organization (HMO) or Prepaid Health Plan (PHP) that has a contract to provide comprehensive health services or upon the implementation of Medicaid Plus have a contract with a Managed Care Entity (MCE). When Medicaid Plus is implemented, HMOs, PHPs or Managed Care Community Networks (MCEs) may serve as MCEs (see 09-111 Adm. Code 142-110 for definition of term).

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2) Transitional payments to a clinic will consist of a per member per month payment for any Illinois Medicaid client enrolled with an HMO or PHP or upon the implementation of Medicaid Plus an MCE for whom the clinic was their assigned care provider on the first day of the month.

3) For the first six months covered under a transitional payment contract, the Department will make transitional payments for any number of Medicaid clients enrolled with an HMO, PHP or MCEN and assigned to the qualifying clinic as their primary care site. Thereafter, qualified clinics will receive transitional payments for a given month only if the total number of Medicaid clients enrolled with an HMO, PHP or MCEN and assigned to the qualifying clinic meets or exceeds the following threshold levels established in the qualifying clinic's transitional payment contract for that month:

A) For the seventh through twelfth month, such threshold shall equal 20 percent of the qualifying clinic's Medicaid patient base;

B) For the thirteenth through eighteenth month, such threshold shall equal 30 percent of the qualifying clinic's Medicaid patient base;

C) For the nineteenth through twenty-fourth month, such threshold shall equal 40 percent of the qualifying clinic's Medicaid patient base;

B) For the twenty-fifth month through the term of the contract, such threshold shall equal 50 percent of the qualifying clinic's Medicaid patient base.

4) The Medicaid patient base shall be a number mutually agreed to by the Department and the qualifying clinic and established in the transitional payment contract that equals the number of Medicaid clients registered as patients of the qualifying clinic as of November 1996. If the qualifying clinic did not have Medicaid clients registered as patients as of November 1996, the mutually agreed to Medicaid patient base shall be the number of Medicaid clients registered as patients of the qualifying clinic as of the sixth month the qualifying clinic receives transitional payments under this Section.

5) Transitional payments shall equal:

A) eight dollars per member per month for the first 12-month period after the effective date of a clinic's contract with the Department;

B) six dollars per member per month for the second 12-month period after the effective date of a clinic's contract with the Department;

C) two dollars per member per month for the third 12-month period after the effective date of a clinic's contract with the Department;

6) Total transitional payments under subsection (e) shall not

DEPARTMENT OF PUBLIC AID

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exceed:

- A) \$2,625,000 through June 30, 1997;
 B) \$4,500,000 for each 12-month period thereafter--that--begins on July 1 and ends on June 30 of the following year.
 7) In the event that payments exceed the limits described in subsection (e)(6) of this Section, the Department will adjust future payments to clinics to recover any excess payment.
 8) No clinic qualifying under this subsection (e) of this Section shall receive transitional payments for any month after November 30, 1998.

f) Managed-Care-Adjustment-Payments

- 1) Effective October 17, 1997, any PQHC or Rural-Health-Clinic (RHCL) is eligible to receive Managed-Care-Adjustment-Payments if:
 A) a client is enrolled with a Health-Maintenance-Organization, a Managed-Care-Community-Network, or a Prepaid-Health-Plan; and
 B) the PQHC or RHCL is the primary care site for such an enrolled client, as designated by the Department.
 2) An PQHC or RHCL shall receive \$12 per member per month for each month in which the criteria described in subsection (f)(1) of this Section are met. However, the \$12 per member per month shall be reduced by the amount of transitional payments as described in subsection (e) of this Section paid or due to a clinic for any month beginning October 17, 1997.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 140.466 Rural Health Clinics (Repealed)

- a) If it operates as an integral part of a hospital, skilled-nursing facility, or other Medicare-participating institution, payment will be at an all-inclusive per-visit rate calculated and determined reasonable by the Medicare intermediary. At the request of such a facility, and upon the receipt of final audited costs as determined by the Medicare intermediary, and upon receipt of total encounters, the Department shall adjust prior claims back to the closing date of the facility's applicable cost report. All adjustments must be consistent with Medicare reimbursement policies.
 b) If it is a rural health clinic classified as an independent clinic (not part of a Medicare provider) providing Medicare-covered services, payment will be at the per-visit rate determined by the Medicare carrier to be reasonable.

(Source: Repealed at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Health Examination Code
 2) Code Citation: 77 Ill. Adm. Code 665
 3) Section Numbers: Proposed Action:
 665.230 Amendment
 665.240 Amendment
 665.250 Amendment
 4) Statutory Authority: Implementing and authorized by Section 27-8.1 of the School Code [105 ILCS 5/27-8.1].

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking involves revising the Child Health Examination Code to reflect the addition to the Immunization Code requiring, beginning July 1, 2002, children entering child care facilities, school operated programs below the kindergarten level, and kindergarten to present evidence of having received one dose of varicella vaccine. In most cases, this requirement will not impact those entering a school operated program below the kindergarten level or kindergarten until the beginning of the 2002-2003 school year. The proposed amendments require children two years of age or older, enrolling for the first time in a child care facility, school operated program below the kindergarten level and kindergarten to present evidence of having received one dose of varicella vaccine on or after the first birthday. Other proof of immunity would consist of a statement from a physician verifying that the child has had varicella, a statement from a health care provider verifying that a parent's or legal guardian's description of varicella disease history is indicative of past infection, or laboratory evidence of immunity to varicella.

The addition of a varicella vaccine requirement for these specific groups of children is consistent with current recommendations of the Advisory Committee on Immunization Practices (ACIP), American Academy of Pediatrics and the American Academy of Family Physicians. Adding such a requirement was also a recommendation of the State's Immunization Advisory Committee. Currently, 30 other states have established a varicella vaccine requirement for children entering day care centers and/or school.

Because varicella incidence is highest among children 1-6 years of age, establishing a varicella vaccine requirement for entry into child care facilities, school operated programs below the kindergarten level and kindergarten will have the greatest impact on reducing disease incidence. In 2000, there were 416 persons in Illinois hospitalized resulting from complications of varicella. In 1999, the most recent year for which statistics are available, five people in the State died due to varicella disease. The proposed immunization requirement is in accordance with the current recommendations of the Advisory Committee on Immunization Practices (ACIP).

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6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain an incorporation by reference? No

9) Are there any other Proposed Amendments pending on this Part? No

10) Statement of statewide policy objectives: This rulemaking will not create a State mandate on units of local government.

11) Time, place and manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning these amendments by writing within 45 days after this issue of the *Illinois Register* to:
Peggy Synder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217)782-2043
(e-mail: rules@idph.state.il.us)

12) Initial Regulatory Flexibility Analysis:

- A) Type of small businesses affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: this rulemaking was not anticipated when the regulatory agenda was submitted.

The full text of the Proposed Amendments begins on the next page:

TITLE 77: PUBLIC HEALTH	
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH	
SUBCHAPTER i: MATERNAL AND CHILD HEALTH	
PART 665	
CHILD HEALTH EXAMINATION CODE	
SUBPART A: GENERAL PROVISIONS	
Section	Statutory Authority
665.100	General Considerations (Repealed)
665.110	
SUBPART B: HEALTH EXAMINATION	
Section	Health Examination Requirement
665.120	Signature of Physician
665.130	Time Examinations to be Conducted
665.140	Report Forms
665.150	Proof of Examination
665.160	Proof of Immunizations
665.210	Local School Authority
665.220	School Entrance
665.230	Basic Immunization
665.240	Proof of Immunity
665.250	Booster Immunizations
665.260	Compliance with the Law
665.270	Physician Statement of Immunity
665.280	
SUBPART C: VISION AND HEARING SCREENING	
Section	Vision and Hearing Screening
665.310	
SUBPART D: DENTAL EXAMINATION	
Section	Dental Examination Recommendation
665.410	Dental Examination
665.420	Dental Examination Record
665.430	Guidelines
665.440	
SUBPART E: EXCEPTIONS	
Section	Objection of Parent or Legal Guardian
665.510	Medical Objection
665.520	

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SUBPART F: VISION EXAMINATION

Section
665.610 Vision Examination Recommendation
665.620 Vision Examination
665.630 Vision Examination Report
665.640 Indigent Students

APPENDIX A Vision Examination Report
APPENDIX B Vaccination Schedule for Haemophilus influenzae type b Conjugate Vaccines (Hib)

AUTHORITY: Implementing and authorized by Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2].

SOURCE: Emergency rule adopted at 4 Ill. Reg. 38, p. 275, effective September 10, 1980, for a maximum of 150 days; emergency rule adopted at 4 Ill. Reg. 41, p. 176, effective October 1, 1980, for a maximum of 150 days; adopted at 5 Ill. Reg. 1403, effective January 29, 1981; codified at 8 Ill. Reg. 8921; amended at 11 Ill. Reg. 11791, effective June 29, 1987; amended at 13 Ill. Reg. 11565, effective July 1, 1989; amended at 13 Ill. Reg. 17047, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5617, effective March 30, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14543, effective August 27, 1990; amended at 15 Ill. Reg. 7706, effective May 1, 1991; amended at 18 Ill. Reg. 4296, effective March 5, 1994; amended at 20 Ill. Reg. 11950, effective August 15, 1996; emergency amendment at 21 Ill. Reg. 11966, effective August 15, 1997, for a maximum of 150 days; emergency expired on January 1, 1998; amended at 26 Ill. Reg. _____, effective _____.

SUBPART B: HEALTH EXAMINATION

Section 665.230 School Entrance

- a) Every child, prior to enrolling in any public, private/independent or parochial school (includes nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) in Illinois shall present to that school proof of immunity against:

- 1) Diphtheria
- 2) Pertussis
- 3) Tetanus
- 4) Poliomyelitis
- 5) Measles
- 6) Rubella
- 7) Mumps
- 8) Haemophilus influenzae type b (as noted in Section 665.240(f))
- 9) Hepatitis B (as noted in Section 665.240(g))

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- 10) Varicella (as noted in Section 665.240(h))
- b) The health care provider verifying the administration of the required immunization shall record as indicated on the Certificate of Child Health Examination that the immunizations were administered.
- c) Any child who does not submit proof of having protection by immunity as required must receive the needed vaccine. If for medical reasons one or more of the required immunizations must be given after the date of entrance of the current school year, a schedule for the administration of the immunizations and a statement of the medical reasons causing the delay must be signed by the health care provider who will administer the needed immunizations and be kept on file at the local school.

(Source: Amended at 26 Ill. Reg. _____, effective _____.)

Section 665.240 Basic Immunization

- a) Diphtheria, Pertussis, Tetanus

1) Any child 2 years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) must show proof (see Section 665.250(b)) of having received four or more doses of Diphtheria, Tetanus, Pertussis (DTP) vaccine. Individual doses in the series must have been received no less than 4 four weeks apart. The interval between the third and fourth or final dose must be at least 6 six months.

2) Any child entering school, kindergarten or first grade, for the first time must show proof (see Section 665.250(b)) of having received 4 four or more doses of Diphtheria, Tetanus, Pertussis (DTP) with the last dose being a booster and having been received on or after the 4th birthday, but prior to school entrance. Individual doses in the series must have been received no less than 4 four weeks apart. The interval between the third and fourth or final dose must be at least 6 six months. Children 6 six years of age and older may receive Tetanus, Diphtheria (Td) vaccine in lieu of DTP vaccine. Pertussis vaccine is not medically recommended for children 7 years of age or older.

3) Any child entering school at a grade level not included in subsection (a)(1) or (2) of this Section must show proof (see Section 665.250(b)) of receiving 3 three or more doses of DTP or Tetanus, Diphtheria (Td) with the last dose being a booster and having been received on or after the 4th birthday. Individual doses in the series must have been received no less than 4 four weeks apart.

4) If 10 years have elapsed since the last booster, an additional Td booster is required.

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b) Polio

- 1) Any child 2 years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) must show proof (see Section 665.250(b)) of having received 3 ~~three~~ or more doses of Trivalent Oral Polio Vaccine (TOPV). Individual doses in the series must have been received no less than 6 ~~six~~ weeks apart.
- 2) Any child entering school, kindergarten or first grade, for the first time must show proof (see Section 665.250(b)) of having received 3 ~~three~~ or more doses of Trivalent Oral Polio Vaccine (TOPV) with the last dose being a booster and having been received on or after the 4th birthday, but prior to school entrance. The first 2 ~~two~~ doses in the series must have been received no less than 6 ~~six~~ weeks apart. The interval between the second and third or final dose must be at least 6 ~~six~~ months.
- 3) Any child entering school at a grade level not included in subsection (b)(1) or (2) of this Section must show proof (see Section 665.250(b)) of receiving 3 ~~three~~ or more doses of TOPV with the last dose being a booster and having been received on or after the 4th birthday. The first 2 ~~two~~ doses in the series must have been received no less than 6 ~~six~~ weeks apart. The interval between the second and third or final dose (booster dose) must be at least 6 ~~six~~ months.
- 4) A series of enhanced-potency inactivated polio vaccine (e-IPV) or inactivated polio vaccine (IPV) and appropriate boosters may, for an individual, be substituted for vaccination with TOPV at the direction of a physician.

c) Measles

- 1) Any child 2 years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) must show proof (see Section 665.250(b)) of having received one dose of live measles virus vaccine at 12 months of age or older, or other proof of immunity described in Section 665.250(c).
- 2) Children entering at any grade level, K-12, must show evidence of having received 2 ~~two~~ doses of live measles virus vaccine, the first dose at 12 months of age or older and the second dose no less than 1 month after the first or other proof of immunity described in Section 665.250(c).
- 3) For students attending school programs where grade levels (K-12) are not assigned, including special education programs, proof of 2 ~~two~~ doses of live measles virus vaccine as described in subsection (c)(2) of this Section shall be submitted prior to the school year in which the child reaches the ages of 5, 10, and 15.

d) Rubella

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Any child 2 years of age or older entering a school program at any grade level, including nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district, must show proof (see Section 665.250(b)) of receiving at least one dose of rubella vaccine at 12 months of age or older. Proof of disease is not acceptable unless laboratory evidence of rubella immunity is presented (see Section 665.250(d)).

e) Mumps

Any child 2 years of age or older entering a school program at any grade level, including nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district, must show proof (see Section 665.250(b)) of receiving at least one dose of mumps vaccine at 12 months of age or older. Proof of disease, if verified by a physician licensed to practice medicine in all of its branches, or laboratory evidence of mumps immunity may be substituted for proof of vaccination (see Section 665.250(e)).

f) Haemophilus influenzae type b

1) Any child 2 years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) must show proof of immunization that complies with the Hib vaccination schedule in Appendix B of this Part.

2) Children 24-59 months of age who have not received the primary series of Hib vaccine, according to the Hib vaccination schedule, must show proof of receiving one dose of Hib vaccine at 15 months of age or older.

3) Any child 5 years of age or older shall not be required to provide proof of immunization with Hib vaccine.

g) Hepatitis B

1) Any child 2 years of age or older entering a school program (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) after July 1997 must show proof (see Section 665.250(b)) of having received 3 ~~three~~ doses of hepatitis B vaccine. The first 2 ~~two~~ doses must have been received no less than 4 weeks apart, and the interval between second and third dose must be at least 2 ~~two~~ months. Proof of prior or current infection, if verified by laboratory evidence, may be substituted for proof of vaccination (see Section 665.250(f)).

2) Children entering the 5th grade for the first time after July 1997, must show evidence of having received 3 doses of hepatitis B vaccine. The first 2 ~~two~~ doses must have been received no less than 4 weeks apart, and the interval between the second and third dose must be at least 2 ~~two~~ months. Proof of prior or current

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infection, if verified by laboratory evidence, may be submitted for proof of vaccination (see Section 665.250(f)).

h) Varicella

1) Any child 2 years of age or older entering a school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) for the first time on or after July 1, 2002, must show proof (see Section 665.250(b)) of having received one dose of varicella vaccine on or after the first birthday, proof of prior varicella disease as described in Section 665.250(g), or laboratory evidence of varicella immunity.

2) Children entering kindergarten for the first time on or after July 1, 2002, must show proof of having received at least one dose of varicella vaccine on or after the first birthday, proof of prior varicella disease as described in Section 665.250(g), or laboratory evidence of varicella immunity.

3) For students attending school programs where grade levels are not assigned, proof of having received at least one dose of varicella vaccine on or after the first birthday or other proof of immunity as described in subsection (h)(2) of this Section shall be submitted prior to the school year in which the child reaches the age of 5.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 665.250 Proof of Immunity

- a) Proof of immunity shall be documented evidence of having received vaccine or proof of disease (as described below) verified by a health care provider defined as: physician (see Section 665.130), school health professional, or health official.
- b) Day and month is required if it cannot otherwise be determined that the vaccine was given after the minimum interval or age.
- c) Proof of prior measles disease must be verified with date of illness signed by a physician or laboratory evidence of measles immunity.
- d) The only acceptable proof of immunity for rubella is evidence of vaccine (dates, see subsection (b) above) or laboratory evidence of rubella immunity.
- e) Proof of prior mumps disease must be verified with date of illness signed by a physician or laboratory evidence of mumps immunity. Laboratory evidence of mumps immunity is only acceptable if the diagnostic test utilized to assess immunity is one with demonstrated reliability, including neutralization, enzyme-linked immunosorbent assay (ELISA or EIA), or radial hemolysis antibody test. A ~~four~~-fold rise in mumps antibody titer between appropriately spaced acute and convalescent sera is also acceptable as proof of immunity.

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f) Proof of prior or current hepatitis B infection must be verified by laboratory evidence. Laboratory evidence of prior or current hepatitis B infection is only acceptable if one of the following serologic tests indicates positivity: HBsAg, anti-HBc and/or anti-HBs.

g) Proof of prior varicella disease must be verified with:

- 1) date of illness signed by a physician; or
- 2) a health care provider's interpretation that a parent's or legal guardian's description of varicella disease history is indicative of past infection; or
- 3) laboratory evidence of varicella immunity.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Immunization Code2) Code Citation: 77 Ill. Adm. Code 6953) Section Numbr: Proposed Action:

695.10 Amendment

695.40 Amendment

695.50 Amendment

4) Statutory Authority: Implementing and authorized by the Communicable Disease Prevention Act, Section 27-8.1 of the School Code [105 ILCS 5/27-8.1], and Section 7 of the Child Care Act of 1969 [225 ILCS 10/7].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking involves requiring, beginning July 1, 2002, children entering child care facilities, school operated programs below the kindergarten level, and kindergarten to present evidence of having received one dose of varicella vaccine. In most cases, this requirement will not impact those entering a school operated program below the kindergarten level or kindergarten until the beginning of the 2002-2003 school year. The proposed amendments require children two years of age or older, enrolling for the first time in a school operated program below the kindergarten level and kindergarten to present evidence of having received one dose of varicella vaccine on or after the first birthday. Other proof of immunity would consist of a statement from a physician verifying that the child has had varicella, a statement from a health care provider verifying that a parent's or legal guardian's description of varicella disease history is indicative of past infection, or laboratory evidence of immunity to varicella.

The addition of a varicella vaccine requirement for these specific groups of children is consistent with current recommendations of the Advisory Committee on Immunization Practices (ACIP), American Academy of Pediatrics and the American Academy of Family Physicians. Adding such a requirement was also a recommendation of the State's Immunization Advisory Committee. Currently, 30 other states have established a varicella vaccine requirement for children entering day care centers and/or school.

Because varicella incidence is highest among children 1-6 years of age, establishing a varicella vaccine requirement for entry into school operated programs below the kindergarten level and kindergarten will have the greatest impact on reducing disease incidence. In 2000, there were 416 persons in Illinois hospitalized resulting from complications of varicella. In 1999, the most recent year for which statistics are available, five people in the State died due to varicella disease. The proposed immunization requirement is in accordance with the current recommendations of the Advisory Committee on Immunization Practices (ACIP).

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6) Will these Rulemaking Replace an Emergency Amendment Currently in Effect?
No

7) Do these Rulemaking Contain an Automatic Repeal Date: No

8) Does these Rulemaking Contain any Incorporation by Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create a State mandate on units of local government.

11) Time, Place and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these amendments by writing within 45 days after this issue of the *Illinois Register* to:

Peggy Synder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield Illinois 62761
(217) 782-2043
(e-mail: rules@idph.state.il.us)

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses Affected: None

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the amendments were not anticipated at the time the regulatory agenda was submitted.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER K: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 695

IMMUNIZATION CODE

Section

695.10 Basic Immunization
 695.20 Booster Immunizations
 695.30 Exceptions
 695.40 List of Non-Immunized Child Care Facility Attendees or Students
 695.50 Proof of Immunity

APPENDIX A Vaccination Schedule for Haemophilus influenzae type b Conjugate Vaccines (Hib)

AUTHORITY: Implementing and authorized by the Communicable Disease Prevention Act [410 ILCS 315], Section 27-8.1 of the School Code [105 ILCS 5/27-8.1], and Section 7 of the Child Care Act of 1969 [225 ILCS 10/7].

SOURCE: Emergency amendment effective June 23, 1977; emergency amendment at 3 Ill. Reg. 14, p. 88, effective March 21, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 52, p. 134, effective December 17, 1979; codified at 8 Ill. Reg. 4512; amended at 11 Ill. Reg. 11799, effective June 29, 1987; emergency amendment at 14 Ill. Reg. 5890, effective March 30, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14562, effective August 27, 1990; amended at 15 Ill. Reg. 7712, effective May 1, 1991; amended at 17 Ill. Reg. 2975, effective February 11, 1993; amended at 20 Ill. Reg. 11962, effective August 15, 1996; emergency amendment at 21 Ill. Reg. 11973, effective August 15, 1997, for a maximum of 150 days; emergency expired on January 11, 1998; amended at 26 Ill. Reg. _____, effective _____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 695.10 Basic Immunization

a) The optimum starting ages for the specified immunizing procedures are as follows:

- | | |
|------------------|---|
| 1) Diphtheria | 2-4 months |
| 2) Pertussis | 2-4 months, combined with diphtheria-tetanus toxoid |
| 3) Tetanus | 2-4 months |
| 4) Poliomyelitis | 2-4 months |
| 5) Measles | 12-15 months |
| 6) Rubella | 12-15 months |

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- | | |
|----------------------------------|----------------|
| 7) Mumps | 12-15 months |
| 8) Haemophilus influenzae type b | 2-4 months |
| 9) Hepatitis B | Birth-2 months |
| 10) Varicella | 12-18 months |

- b) All children 2 months of age and over upon first entering a child care facility shall present evidence that such person has been immunized, or is in the process of being immunized, according to the recommended schedule against diphtheria, pertussis, tetanus, polio, measles, mumps, rubella, Haemophilus influenzae type b, and hepatitis B, and varicella.
- c) All children entering school programs (includes nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) in Illinois for the first time shall present evidence of immunity against:

- 1) Diphtheria
- 2) Pertussis (except as noted in subsection (d) of this Section)
- 3) Tetanus
- 4) Poliomyelitis
- 5) Measles (except as noted in subsection (f) of this Section)
- 6) Rubella
- 7) Mumps
- 8) Haemophilus influenzae type b (except as noted in subsection (i) of this Section)
- 9) Hepatitis B (except as noted in subsection (j) of this Section)
- 10) Varicella (except as noted in subsection (k) of this Section)

d) Diphtheria, Tetanus, Pertussis

- 1) Any child entering a child care facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) must show proof (see Section 695.50) of having received three doses of Diphtheria, Tetanus, Pertussis (DTP) by one year of age and one additional dose by the second birthday. Individual doses in the series must have been received no less than four weeks apart. The interval between the third and fourth or final dose must be at least 6 months. Any child 24 months of age or older shall present proof of four doses of DTP vaccine, appropriately spaced.
- 2) Any child entering school, kindergarten or first grade, for the first time must show proof (see Section 695.50) of having received four or more doses of Diphtheria, Tetanus, Pertussis (DTP) with the last dose being a booster and having been received on or after the 4th birthday, but prior to school entrance. Individual doses in the series must have been received no less than four weeks apart. The interval between the third and

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fourth, or final dose, must be at least 6 months. Children 6 ~~six~~ years of age or older may receive Tetanus, Diphtheria (Td) vaccine in lieu of DTP vaccine. Pertussis vaccine is not medically recommended for children 7 years of age or older.

3) Any child entering school at a grade level not included in subsection (d)(1) or (2) of this Section must show proof (see Section 695.50) of having received 3 ~~three~~ or more doses of DTP or Tetanus, Diphtheria (Td) with the last dose being a booster and having been received on or after the 4th birthday. Individual doses in the series must have been received no less than 4 ~~four~~ weeks apart. The interval between the second and third, or final dose, must be at least 6 months.

4) If 10 years have elapsed since the last booster, an additional Td booster is required.

5) School age children entering a child care facility shall comply with the immunization requirements in accordance with subsections (d)(2), (3) and (4) above.

e) Polio

1) Any child entering a child care facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district must show proof (see Section 695.50) of having received 2 ~~two~~ doses of Trivalent Oral Polio Vaccine (TOPV) by one year of age and a third dose by the second birthday. Individual doses in the series must have been received no less than 6 weeks apart. Any child 24 months of age or older shall present proof of at least 3 ~~three~~ doses of TOPV, appropriately spaced.

2) Any child entering school at any grade level, K-12, must show proof (see Section 695.50) of having received 3 ~~three~~ or more doses of Trivalent Oral Polio Vaccine (TOPV) with the last dose being a booster and having been received on or after the 4th birthday, but prior to school entrance. The first 2 ~~two~~ doses in the series must have been received no less than 6 ~~six~~ weeks apart. The interval between the second and third or final dose must be at least 6 ~~six~~ months.

3) A course of enhanced-potency inactivated polio vaccine (e-IPV) or inactivated polio vaccine (IPV) and appropriate boosters may, for an individual child, be substituted for vaccination with a Trivalent Oral Polio Vaccine (TOPV) at the direction of a physician licensed to practice medicine in all its branches.

4) School age children entering a child care facility shall comply with the immunization requirements in accordance with subsections (e)(2) and (3) above.

f) Measles

1) Any child entering a child care facility or school program under the kindergarten level (defined as nursery schools, pre-school

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programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall present evidence of having received one dose of live measles virus vaccine by the second birthday. The measles vaccine must have been received at 12 months of age or older.

2) The child shall present evidence that he or she has:

A) been age-appropriately immunized against red measles (rubeola) prior to entering a child care facility or school, including school programs under the kindergarten level, for the first time, or

B) a statement from the physician that he or she has had measles (rubeola), or

C) laboratory evidence of measles immunity.

3) Children entering school at any grade level, K-12, must show evidence of having received 2 ~~two~~ doses of live measles virus vaccine, the first dose at 12 months of age or older and the second dose no less than 1 month after the first or other proof of immunity as described in this Part.

4) For students attending school programs where grade levels (K-12) are not assigned, including special education programs, proof of 2 ~~two~~ doses of measles vaccine as described in subsection (f)(3) of this Section shall be submitted prior to the school year in which the child reaches the ages of 5, 10, and 15.

5) School age children entering a child care facility shall comply with the immunization requirements in accordance with subsections (f)(2), (3), and (4) above.

g) Mumps

1) Any child entering a child care facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall present evidence of having received one dose of live mumps virus vaccine by the second birthday. The mumps vaccine must have been received at twelve-12 months of age or older.

2) The child shall present evidence that he or she has:

A) been age-appropriately immunized against mumps prior to entering a child care facility or school, including school programs under the kindergarten level, for the first time, or

B) a statement from the physician that he or she has had mumps, or

C) laboratory evidence of mumps immunity (see Section 695.50(e)).

3) Children entering school at any grade level, K-12, must show evidence of having received at least one dose of mumps vaccine at 12 months of age or older.

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4) Only those children who have been immunized with live mumps virus vaccine at twelve-12 months or older, had physician diagnosed mumps disease, or show laboratory evidence of immunity shall be considered to be immune.

5) School age children entering a child care facility shall comply with the immunization requirements in accordance with subsections (g)(2), (3) and (4) above.

h) Rubella

1) Any child entering a child care facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall present evidence of having received one dose of rubella vaccine by the second birthday. The rubella vaccine must have been received at twelve-12 months of age or older.

2) The child shall present evidence that he or she has:

A) been age-appropriately immunized against rubella prior to entering a child care facility or school, including school programs under the kindergarten level, for the first time, or

B) laboratory evidence of immunity to rubella.

3) Children entering school at any grade level, K-12, must show evidence of having received at least one dose of rubella vaccine at 12 months of age or older.

4) Only those children who have been immunized with rubella vaccine at twelve-12 months or older, or have a laboratory (serologic) evidence of immunity to rubella, shall be considered to be immune.

5) School age children entering a child care facility shall comply with immunization requirements in accordance with subsections (h)(2), (3) and (4) above.

i) Haemophilus influenzae type b (Hib)

1) Any child under 5 years of age entering a child care facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) shall present evidence of immunization that complies with the Hib vaccination schedule in Appendix A of this Part. Any child who has reached his fifth birthday shall not be required to present evidence of immunization.

2) Children 24-59 months of age who have not received the primary series of Hib vaccine, according to the Hib vaccination schedule, must show proof of receiving one dose of Hib vaccine at 15 months of age or older.

j) Hepatitis B

1) Any child 2 years of age or older enrolling in a child care

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facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) after July 1997 shall present evidence of having received 3 doses of hepatitis B vaccine. The first 2 two doses must have been received no less than 4 weeks apart, and the interval between the second and third dose must be at least 2 two months. The child shall present evidence that he or she has:

A) been age-appropriately immunized against hepatitis B prior to enrolling in a child care facility or school program under the kindergarten level for the first time, or

B) laboratory evidence of prior or current hepatitis B infection.

2) Children entering the 5th grade for the first time after July 1997, must show evidence of having received 3 doses of hepatitis B vaccine. The first 2 two doses must have been received no less than 4 weeks apart, and the interval between the second and third dose must be at least 2 two months. Proof of prior or current infection, if verified by laboratory evidence, may be submitted for proof of vaccination (see Section 695.50(f)).

3) Only those children who have been immunized with hepatitis B vaccine in accordance with subsections (j)(1) and (2) of this Section shall be considered immune.

4) School age children entering a child care facility shall comply with the immunization requirements in accordance with this subsection (j).

k) Varicella

1) Any child 2 years of age or older entering a childcare facility or school program under the kindergarten level (defined as nursery schools, pre-school programs, early childhood programs, Head Start, or other pre-kindergarten child care programs offered or operated by a school or school district) for the first time on or after July 1, 2002, shall present evidence of having received one dose of varicella vaccine or other proof of immunity as specified in Section 695.50(g). The varicella vaccine must have been received on or after the first birthday.

2) The child shall present:

A) evidence that he or she has been age-appropriately immunized against varicella prior to entering a child care facility or school program under the kindergarten level for the first time, or

B) a statement from a physician verifying that the child has had varicella, or

C) a statement from a health care provider (as defined in Section 695.50(a)) verifying that a parent's or legal guardian's description of varicella disease history is indicative of past infection, or

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- D) laboratory evidence of immunity to varicella.
- 3) Children entering kindergarten for the first time on or after July 1, 2002, must show evidence of having received one dose of varicella vaccine on or after the first birthday or other proof of immunity as specified in Section 695.50(g).
- 4) Only those children who have been immunized with varicella vaccine in accordance with subsections (k)(1), (2)(A), and (3) of this Section, have had physician diagnosed varicella disease, have a health care provider's interpretation that a parent's or legal guardian's description of varicella disease history is indicative of past infection, or have laboratory evidence of immunity shall be considered to be immune.
- 5) School age children entering a childcare facility shall comply with the immunization requirements in accordance with subsections (k)(2), (3), and (4).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

qR

Section 695.40 List of Non-Immunized Child Care Facility Attendees or Students

An accurate list shall be maintained at every child care facility or attendance center of all children who have not presented evidence of immunity against diphtheria, pertussis (to age six), tetanus, poliomyelitis, measles, rubella, mumps and Haemophilus influenzae type b (to age 5 five), and varicella (as noted in Section 695.10(k)).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 695.50 Proof of Immunity

- a) Proof of immunity shall consist of documented evidence of the child having received a vaccine (verified by a health care provider, defined as a physician, child care or school health professional, or health official) or proof of disease (as described in subsections (c) through (g)(ff)-betew). As used in this Section, "physician" means a physician licensed to practice medicine in all of its branches (M.D. or D.O.).
- b) The day and month of the vaccine is required if it cannot otherwise be determined that the vaccine was given after the minimum interval or age.
- c) Proof of prior measles disease must be verified with the date of illness signed by a physician, or laboratory evidence of immunity.
- d) The only acceptable proof of immunity for rubella is evidence of vaccine (see subsection (b) above) or laboratory evidence of immunity.
- e) Proof of prior mumps disease must be verified with date of illness signed by a physician or laboratory evidence of immunity. Laboratory

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evidence of mumps is only acceptable if the diagnostic test utilized to assess immunity is one with demonstrated reliability, including neutralization, enzyme-linked immunosorbent assay (ELISA or EIA), or radial hemolysis antibody test. A 4 four-fold rise in mumps antibody titer between appropriately spaced acute and convalescent sera is also acceptable as proof of immunity.

- f) Proof of prior or current hepatitis B infection must be verified by laboratory evidence. Laboratory evidence of prior or current hepatitis B infection is only acceptable if one of the following serologic tests indicates positivity: HBsAg, anti-HBc and/or anti-HBs.

- g) Proof of prior varicella disease must be verified with date of illness signed by a physician, a health care provider's interpretation that a parent's or legal guardian's description of varicella disease history is indicative of past infection, or laboratory evidence of varicella immunity.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Service Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 140

3) <u>Section Numbers:</u>	<u>Proposed Action:</u>
140.125	Amendment
140.127	Amendment
140.128	Amendment
140.201	Amendment
140.1601	Amendment

4) Statutory Authority: 35 ILCS 115 and 20 ILCS 2505/2505-100

5) A Complete Description of the Subjects and Issues Involved: Section 140.125, which is a brief listing of various exemptions, has been amended to reflect recent legislation, including changes to the exemption afforded not-for-profit arts or cultural organizations (P.A. 92-35); modifications to the manufacturing machinery and equipment exemption to include certain chemicals and to expand the CAD/CAM exemption (P.A. 92-484); changes, due to the effect of sunset provisions, to the exemption for lessors leasing tangible personal property to governmental bodies and certain types of equipment to exempt hospitals (P.A. 92-227); and provisions reflecting the expanded exemption for automatic vending machines (P.A. 92-337). Sections 140.127 and 140.128, which more fully explain the exemptions for lessors leasing tangible personal property to governmental bodies and certain types of equipment to exempt hospitals, have been amended to clarify the manner in which the sunset provisions of the Service Occupation Tax have affected the availability of this exemption. Section 140.201 has been amended to specifically cross-reference the Retailers' Occupation Tax Act regulation (Section 130.330) governing manufacturing machinery and equipment, so as to incorporate provisions reflecting the exemption for expanded CAD/CAM equipment and the inclusion of certain chemicals. Section 140.1601, governing bulk sales provisions, has been updated, and examples (identical to those found in the Retailers' Occupation Tax regulations governing bulk sales) have been provided to clarify situations requiring (and not requiring) bulk sales reporting.

6) Will these proposed amendments replace any emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

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11) Time, place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing, by no later than 45 days after publication of this notice, to:

Jerilynn Gorden
Senior Counsel, Sales & Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Businesses providing services to consumers, manufacturers and lessees.

B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping.

C) Types of professional skills necessary for compliance: Bookkeeping and accounting.

13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 140
SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
140.101 Basis and Rate of the Service Occupation Tax
140.105 Registration of Servicemen
140.110 Presumption that Tax Applies (Repealed)
140.115 Occasional Sales to Servicemen by Suppliers (Repealed)
140.120 Meaning of Serviceman
140.125 Examples of Nontaxability
140.126 Exemption of Food, Drugs and Medical Appliances
140.127 Service Provided to Persons Who Lease Tangible Personal Property to Exempt Hospitals
140.128 Persons Who Lease Tangible Personal Property to Governmental Bodies
140.130 Suppliers of Printers (Repealed)
140.135 Sales of Drugs and Related Items, to or by Pharmacists
140.140 Other Examples of Taxable Transactions
140.141 Warranty Repairs
140.145 Multi-Service Situations

SUBPART B: DEFINITIONS

Section
140.201 General Definitions

SUBPART C: BASE OF THE TAX

Section
140.301 Cost Price
140.305 Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section
140.401 Monthly Returns When Due -- Contents of Returns
140.405 Annual Tax Returns
140.410 Final Return
140.415 Taxpayer's Duty to Obtain Form
140.420 Annual Information Returns by Servicemen
140.425 Filing of Returns for Serviceman "Suppliers" by their Suppliers Under Certain Circumstances
140.430 Incorporation by Reference

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SUBPART E: INTERSTATE COMMERCE

Section
140.501 Sales of Service Involving Property Originating in Illinois
140.505 Sales of Service Involving Property Originating Outside of Illinois (Repealed)

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

Section
140.601 General Information

SUBPART G: BOOKS AND RECORDS

Section
140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section
140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING
Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section
140.1001 Payment of Tax to the Supplier
140.1005 Receipt to be Obtained for Tax Payments
140.1010 Payment of Tax Directly to the Department
140.1015 Itemization of the Tax by Suppliers
140.1020 Use of Bracket Chart
140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING -- MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section
140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
140.1201 When Lessee of Premises May File Return for Leased Department
140.1205 When Lessor of Premises Should File Return for Leased Department
140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

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SUBPART M: USE OF EXEMPTION CERTIFICATES

Section	
140.1301	When Purpose of Serviceman's Purchase is Known (Repealed)
140.1305	When Purpose of Serviceman's Purchase is Unknown
140.1310	Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section	
140.1401	Claims for Credit -- Limitations -- Procedure
140.1405	Disposition of Credit Memoranda by Holders Thereof
140.1410	Refunds
140.1415	Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section	
140.1501	Procedures

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section	
140.1601	Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section	
140.1701	General Information

AUTHORITY: Implementing the Service Occupation Tax Act [35 ILCS 115] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990; amended at 15 Ill. Reg. 5834, effective April 5, 1991; amended at 18 Ill. Reg. 1550, effective January 13, 1994; amended at 20 Ill. Reg. 5379, effective March 26, 1996; amended at 20 Ill. Reg. 7008, effective May 7, 1996; amended at 20 Ill. Reg. 16211, effective December

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16, 1996; amended at 24 Ill. Reg. 8125, effective May 26, 2000; emergency amendment at 25 Ill. Reg. 1811, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4971, effective March 23, 2001; amended at 25 Ill. Reg. 6531, effective May 3, 2001; amended at 26 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF TAX

Section 140.125 Examples of Nontaxability

The tax does not apply to:

- a) sales of intangible personal property;
- b) sales of real property;
- c) sales of personal services as such;
- d) sales of tangible personal property which come within the protection of the Commerce Clause of the Constitution of the United States (see Subpart E of this Part);
- e) personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise (Section 3-5(1) of the Act);
- f) the retail selling of tangible personal property which is taxable under the Retailers' Occupation Tax Act [35 ILCS 120] or the Use Tax Act [35 ILCS 105];
- g) a sale of tangible personal property for the purpose of resale apart from the purchaser's engaging in a service occupation, made in compliance with Section 2c of the Retailers' Occupation Tax Act (Section 2 of the Act);
- h) sales of tangible personal property as an incident to sales of service:
 - 1) to or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes (Section 2(c) of the Act), in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (h)(1);
 - 2) to or by any corporation, society, association, foundation or institution operated primarily for the recreation of persons aged 55 years or older which has no compensated officers or employees, in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (h)(2) (Section 2(c) of the Act);
 - 3) to or by any governmental body (Section 2(c) of the Act), in accordance with the provisions of 86 Ill. Adm. Code 130.2055 and 130.2080, which are effective as if fully set forth in this subsection (h)(3);

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- 4) to a not-for-profit Illinois county fair association for use in conducting, operating or promoting the county fair (Section 3-5(2) of the Act);
- 5) to any not-for-profit arts or cultural organization that has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USC 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed above must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. Effective August 6, 1999, as amended by P.A. 91-439, this exemption applies to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USC 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations and media arts organizations (Section 3-5 of the Act).

In order to qualify for exemption, all the above listed organizations (and on and after July 1, 2001, except those described in subsection (h)(5)) must have been issued an active exemption identification number by the Department;

- i) the sale, employment and transfer of such tangible personal property as newspaper and ink for physical incorporation into newspapers or magazines;
- j) the incorporation of tangible personal property into real estate by a construction contractor, which activity constitutes a taxable "use" under the Retailers' Occupation Tax Act and the Use Tax Act, rather than the carrying on of a service occupation;
- k) the sale, employment and transfer, as an incident to a sale of service, of such tangible personal property as pollution control facilities and low sulphur dioxide coal fueled devices, in accordance with the provisions of 86 Ill. Adm. Code 130.335, which are effective as if fully set forth in this subsection (k);
- l) sales of stock tonics, serums and other medicinal products to veterinarians for retransfer as an incident to service in caring for animals that are to be sold or the products of which are to be sold;
- m) sales of sprays and farm chemicals as an incident to service by persons engaged in the service occupation of spraying crops or

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- applying farm chemicals for others, in accordance with the provisions of 86 Ill. Adm. Code 130.1955, which are effective as if fully set forth in this subsection (m);
- n) sale of either new or used farm machinery, equipment or replacement parts transferred as an incident to a sale of service for use in production agriculture or for use in State or federal agricultural programs, in accordance with the provisions of 86 Ill. Adm. Code 130.305, which are effective as if fully set forth in this subsection (n);
- o) a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a service occupation tax or service use tax, rather than retailers' occupation tax or use tax. (Section 2 of the Act) (Amended by Public Act 87-876, effective January 1, 1993.) The transfer of standard or stock parts in the repair of qualifying exempt manufacturing machinery and equipment is exempt. The provisions of 86 Ill. Adm. Code 130.330 are effective as if fully set forth in this subsection (o);
- p) through August 12, 1999, a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing or other processes or defined in Major Group 27 of the U.S. Standard Industrial Classification Manual. However, effective August 13, 1999, this exemption applies to a sale or transfer of graphic arts machinery and equipment, including repair and replacement parts used primarily for graphic arts production by means of printing, including ink jet printing, by one or more of the processes as described in Groups 323110 through 323122 of Subsector 323, Groups 511110 through 511199 of Subsector 511 and Group 512230 of Subsector 512 of the North American Industry Classification System published by the United States Office of Management and Budget, 1997 edition, in accordance with the provisions of 86 Ill. Adm. Code 130.325, which are effective as if fully set forth in this subsection (p); (Sections 3-5 and 3-30 of the Act);
- q) sales of oil field exploration, drilling and production equipment and individual replacement parts, in accordance with the provisions of 86 Ill. Adm. Code 130.345, which are effective as if fully set forth in this subsection (q) (Section 3-5(10) of the Act);
- r) sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment and repair parts, in accordance with the provisions of 86 Ill. Adm. Code 130.350, which are effective as if fully set forth in this subsection (r) (Section 3-5(12) of the

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Act);

- s) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce, in accordance with the provisions of 86 Ill. Adm. Code 130.340, which are effective as if fully set forth in this subsection (s). Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Sections 2(d) and 2d of the Act);
- t) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce, in accordance with the provisions of 86 Ill. Adm. Code 130.340, which are effective as if fully set forth in this subsection (t). Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Sections 2(d) and 2d of the Act);
- u) the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale (Section 2(f) of the Act);
- v) sales by teacher-sponsored student organizations affiliated with Illinois elementary and secondary schools, in accordance with the provisions of 86 Ill. Adm. Code 130.2006, which are effective as if fully set forth in this subsection (v) (Section 3-5(6) of the Act);
- w) sales of legal tender, currency, medallions, or gold or silver coinage

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issued by the State of Illinois, the government of the United States or any foreign country and bullion, which shall mean gold, silver or platinum in a bulk state with a purity of not less than 980 parts per 1,000. In no circumstance shall items sold as jewelry or mounted for wear as jewelry qualify for this exemption (Section 3-5(4) of the Act);

- x) sales of modified or custom software are exempt. Sales of canned software in a service transaction are subject to tax. Computer software means all types of software including operational, application, utilities, compilers, templates, shells and all other forms. Software is considered to be tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. The sale at retail or transfer of canned software intended for general or repeated use is taxable, including the sale of software which is subject to manufacturer licenses restricting the use or reproduction of the software. Tax applies to the entire charge made to the customer, including charges for all associated documentation and materials. Charges for updates and maintenance of software are considered to be sales of software. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of software. For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.1935 are effective as if fully set forth in this subsection (x);
- y) sales of semen used for artificial insemination of livestock for direct agricultural production. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing, and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(14) of the Act);
- z) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased for donation, and a statement that the property

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purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(18) of the Act);

aa) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, sales of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within six months after the disaster. Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit (Section 3-5(19) of the Act);

bb) beginning July 20, 1999, game or game birds purchased incident to a sale of service at:

- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]),
- 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or
- 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources (Section 3-5 of the Act);

cc) fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers (Section 3-5(8) of the Act);

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dd) proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed (Section 3-5(9) of the Act);

ee) photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, as photoprocessing is defined in Section 3-15 of the Act, and including photoprocessing machinery and equipment purchased for lease (Section 3-5(11) of the Act);

ff) until May 31, 2000, horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes (Section 3-5(15) of the Act);

gg) effective until January 1, 1996 through December 31, 2000, and on and after August 2, 2001 until 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act in accordance with the provisions of 86 Ill. Adm. Code 130.2011, which are effective as fully as if set forth in this subsection (gg) (Section 3-5(16) of the Act);

hh) effective until January 1, 1996 through December 31, 2000, and on and after August 2, 2001 until 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act, in accordance with the provisions of 86 Ill. Adm. Code 130.2012, which are effective as fully as if set forth in this subsection (hh) (Section 3-5(17) of the Act);

ii) aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code, in accordance with the provisions of 86 Ill. Adm. Code 130.351, which are effective as fully as if set forth in this subsection (ii) (Section 3-7 of the Act);

jj) effective August 20, 1999, sales of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated

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to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, a "corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. (Section 3-5 of the Act) Exemption certificates must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see 86 Ill. Adm. Code 130.2005), such entity's tax exemption identification number, and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and made available to the Department for inspection or audit; where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicine, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [210 ILCS 45] (Section 3-5(13) of the Act);

ll) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (ll) does not apply to fundraising events;

1) for the benefit of private home instruction; or

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2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity (Section 3-5 of the Act). For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.2009 are effective as if fully set forth in this subsection (ll);

mm) of jet fuel and petroleum products sold to and used in the conduct of the business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act [20 ILCS 655], provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [220 ILCS 5/9-222.1] (Section 12 of the Act, referencing Section 1j.1 of the Retailers' Occupation Tax Act, 35 ILCS 120/1j.1). High impact service facilities qualifying under the Act and seeking the exemption for such jet fuel and petroleum products shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemption for jet fuel and petroleum products described in this subsection. The certification of eligibility issued to the high impact service facility by the Department of Commerce and Community Affairs for exemption shall be presented by the high impact service facility to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted, together with a certification by the high impact service facility that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Retailers' Occupation Tax Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order. (Section 1i of the Act) (Section 12 of the Act, referencing Section 1i of the Retailers' Occupation Tax Act [35 ILCS 120/1i])¹⁷

nn) beginning January 1, 2000 through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 115/3-5 (23)] For purposes of this subsection, the provisions of 86 Ill. Adm. Code 130.332 are effective as if fully set forth in this subsection (nn).

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 140.127 Service Provided to Persons Who Lease Tangible Personal

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Property to Exempt Hospitals

- a) Effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, computers and communications equipment utilized for any hospital purpose that are transferred incident to a sale of service to persons who lease those items to exempt hospitals are not subject to Service Occupation Tax. As noted in this subsection, the exemption is not available during the period January 1, 2001 through August 1, 2001 because it expired under the provisions of Section 3-55 of the Service Occupation Tax Act [35 ILCS 115/3-55] and was not reinstated until August 2, 2001. The exemption is otherwise available, provided that **providing:**
- 1) the computers and communications equipment described above must be leased to a tax exempt hospital under a lease that has been executed or is in effect at the time of purchase;
 - 2) the lease must be for a period of one year or longer; and
 - 3) the lease must be to a hospital that has an active tax exemption identification number issued by the Department under Section 1g of the Retailers' Occupation Tax Act (see 86 Ill. Adm. Code 130.2007).

- b) Effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, equipment, other than that specified in subsection (a), used in the diagnosis, analysis, or treatment of hospital patients that is transferred incident to a sale of service to persons who lease that equipment to exempt hospitals is not subject to Service Occupation Tax. As noted in this subsection, the exemption is not available during the period January 1, 2001 through August 1, 2001 because it expired under the provisions of Section 3-55 of the Service Occupation Tax Act [35 ILCS 115/3-55] and was not reinstated until August 2, 2001. The exemption is otherwise available, provided that **providing:**

- 1) the equipment described above must all be purchased for lease to a tax exempt hospital under a lease that has been executed or is in effect at the time of purchase;
- 2) the lease must be for a period of one year or longer; and
- 3) the lease must be to a hospital that has an active tax exemption identification number issued by the Department under Section 1g of the Retailers' Occupation Tax Act (see 86 Ill. Adm. Code 130.2007).

- c) The serviceman must retain the certification described below in his books and records to properly document the exemption described in this Section.

- 1) When this exemption may be properly claimed for computer or other communications equipment, the service customer must give the serviceman a certification stating that the computer or other communications equipment is for lease to a tax exempt hospital under a lease for a period of one year or longer executed or in effect at the time of the purchase.

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- 2) When this exemption may be properly claimed for equipment used in the diagnosis, analysis, or treatment of hospital patients, the service customer must give the serviceman a certification stating that the equipment is being purchased for lease to a tax exempt hospital under a lease for a period of one year or longer executed or in effect at the time of the purchase, and that the equipment is for use in the diagnosis, analysis, or treatment of hospital patients.
- 3) The certification described in subsections (c)(1) and (c)(2) of this Section must also contain all of the following:
 - A) The serviceman's name and address;
 - B) The service customer's name and address;
 - C) A description of the tangible personal property being transferred incident to the sale of service;
 - D) The service customer's signature and date of signing;
 - E) The name and address of the hospital and its tax exemption identification number issued by the Department; and
 - F) The date the lease was executed and the lease period.
- d) For purposes of this Section, "hospital patients" means persons who seek any form of medical care including, but not limited to, medical treatment, testing, diagnosis, or therapy at a hospital or at another location under the control and supervision of a hospital. For example, persons who are sent by doctors for X-rays or other tests at qualifying hospitals, even though those persons are not admitted to those hospitals, are considered hospital patients.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

Section 140.128 Persons Who Lease Tangible Personal Property to Governmental Bodies

- a) Effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, tangible personal property transferred incident to a sale of service to a lessor who leases that property to a governmental body is not subject to Service Occupation Tax. As noted in this subsection, the exemption is not available during the period January 1, 2001 through August 1, 2001 because it expired under the provisions of Section 3-55 of the Service Occupation Tax Act [35 ILCS 115/3-55]. The exemption is otherwise available, provided that:
- 1) the property must be leased to a governmental body under a lease that has been executed or is in effect at the time of purchase;
 - 2) the lease must be for a period of one year or longer; and
 - 3) The lease must be to a governmental body that has an active tax exemption identification number issued by the Department under Section 1g of the Retailers' Occupation Tax Act (see 86 Ill. Adm. Code 130.2007).

- b) When this exemption may be properly claimed, the service customer must

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give the serviceman a certification stating that the property is for lease to a governmental body, under a lease of one year or longer executed or in effect at the time of the purchase, and containing all of the following:

- 1) The serviceman's name and address;
- 2) The service customer's name and address;
- 3) A description of the tangible personal property being purchased;
- 4) The service customer's signature and date of signing;
- 5) The name of the governmental body and its tax exemption identification number issued by the Department; and
- 6) The date the lease was executed and the lease period.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS

Section 140.201 General Definitions

- a) "Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier; but does not include charges which are added to prices by suppliers on account of the purchaser's tax liability under the Act or the Service Use Tax Act [35 ILCS 110]. Except as provided in Section 140.145(a), when a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property. (Section 2 of the Act)
- b) "De minimis serviceman" means a serviceman whose annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. See Section 140.105 for the method used to determine de minimis status.
- c) "Department" means the Illinois Department of Revenue.
- d) "Person" means any natural individual, firm, partnership, association, joint stock company, limited liability company, joint venture, public or private corporation, and any receiver, executor, trustee, conservator or other representative appointed by order of any court.
- e) "Sale at Retail" means "sale at retail" as defined in Section 1 of the Retailers' Occupation Tax Act [35 ILCS 120].
- f) "Sale of Service" means any transaction except:

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- 1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act (Section 2(a) of the Act);
- 2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act (Section 2(b) of the Act);
- 3) a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or for or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under the Act only if the limited liability company is organized and operated exclusively for educational purposes. Effective July 1, 1987, this exception will not apply unless the entities noted above have an active exemption identification number issued by the Department (Section 2(c) of the Act);
- 4) effective September 1, 1968, a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce. Effective August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Section 2(d) of the Act);
- 5) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce. Effective

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August 14, 1999, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period, in accordance with the provisions of 86 Ill. Adm. Code 130.340 (Section 2(d-1) of the Act);

6) the sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale or (Section 2(f) of the Act);

7) a sale or transfer of machinery and equipment used primarily in the process of manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax in accordance with the provisions of 86 Ill. Adm. Code 130.330 (Section 2(e) of the Act);

8) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act (Section 2(g) of the Act);

9) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard

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uniform bill of lading showing the person who repaired, reconditioned or remodeled the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois (Section 2(d-2) of the Act);

10) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois (Section 2(d-3) of the Act).

g) "Selling price" means the consideration for a sale valued in money, whether received in money, or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges that appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Act. For purposes of calculating the serviceman's tax base, the selling price shall not be less than the cost price to the serviceman of the tangible personal property transferred to the service customer.

h) "Serviceman" means any person who is engaged in the occupation of making sales of service.

i) "Supplier" means any person who makes sales of tangible personal property to servicemen for transfer incident to sales of service.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section 140.1601 Requirements and Procedures

a) If any taxpayer, outside the usual course of his business, sells or transfers the major part of any one or more of:

1) The stock of goods which he is engaged in the business of selling;

2) the furniture or fixtures;

3) the machinery and equipment; or

4) real property of any business that is subject to the provisions of the Act, under this Section the purchaser or transferee of

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such assets shall, no later than 10 days after the sale or transfer, file a notice of sale or transfer of business assets with the Chicago Office of the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements, which shall include a description of the property sold, the amount of the purchase price or a statement of other consideration for the sale or transfer, the terms for payment of the purchase price and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above-described notice of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable for the amount owed by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The seller or transferor shall pay the Department the amount of tax, penalty and interest (if any) due from him under the Act up to the date of the payment of tax. The seller or transferor, or the purchaser or transferee, at least 10 days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit the books and records of the seller or transferor or do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with such request.

- b) Any order issued by the Department pursuant to the Act and this Section to withhold from the purchase price shall be issued within 10 days after the Department receives notification of a sale as provided in the Act and this Section. The purchaser or transferee shall withhold such portion of the purchase price as may be directed by the Department, but not to exceed a minimum amount varying by type of business plus twice the outstanding unpaid liabilities and twice the average liability of preceding filings times the number of unfiled returns to cover the amount of all tax, penalty and interest due and unpaid by the seller or transferor under the Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer. Within 60 days after the issuance of the initial order to withhold, the Department shall provide written notice to the purchaser or transferee of the actual amount of all taxes, penalties and interest then due and whether or not additional amounts may become due as a result of unfiled returns, pending assessments and audits not completed. The purchaser or transferee shall continue to withhold the amount directed to be withheld by the initial order or such lesser amount as is specified by the final order or to withhold the performance of the condition which constitutes the consideration for

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the sale or transfer until the purchaser or transferee receives from the Department a certificate showing that such tax, penalty and interest have been paid or a certificate from the Department showing that no tax, penalty or interest is due from the seller or transferor under the Act.

- c) The purchaser or transferee is relieved of any duty to continue to withhold from the purchase price and of any liability for tax, penalty or interest due under the Act from the seller or transferor if the Department fails to notify the purchaser or transferee in the manner provided in this Section of the amount to be withheld within 10 days after the sale or transfer has been reported to the Department or within 60 days after issuance of the initial order to withhold, as the case may be. The Department shall have the right to determine amounts claimed on an estimated basis to allow for non-filed periods, pending assessments and audits not completed. However, the purchaser or transferee shall be personally liable only for the actual amount due when determined.

- d) If the seller or transferor fails to pay the tax, penalty and interest (if any) due from him under the Act and the Department makes timely claim therefor against the purchaser or transferee as provided in subsection (b), then the purchaser or transferee shall pay the amount so withheld from the purchase price to the Department. If the purchaser or transferee fails to comply with the requirements of this Section or under the Act, the purchaser or transferee shall be personally liable to the Department for the amount owed under the Act by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

- e) Any person who shall acquire any property or rights thereto which, at the time of such acquisition, is subject to a valid lien in favor of the Department shall be personally liable to the Department for a sum equal to the amount of taxes secured by such lien but not to exceed the reasonable value of such property acquired by him. (Section 5j of the Retailers' Occupation Tax Act)

- f) Examples of situations where bulk sales reporting is required:

- 1) When a store selling clothing and shoes sells the clothing inventory of the business to another entity, bulk sales reporting is required.
- 2) When a company sells its business on a contract for deed basis, bulk sales reporting is required when the company enters into the contract.

- g) Examples of situations where bulk sales reporting is not required:

- 1) When a corporation is merged into another corporation pursuant to the Business Corporation Act of 1983 [805 ILCS 5], there are no bulk sales reporting requirements because the surviving corporation retains all of the liabilities of the merged corporation.
- 2) When one or more corporations are consolidated into a new

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corporation pursuant to the Business Corporation Act of 1983 [805 ILCS 5], there are no bulk sales reporting requirements because the new corporation retains all of the liabilities of the consolidated corporations.

3) A repossession of equipment and inventory by a lender upon default by a borrower does not constitute a transfer within the meaning of the bulk sales provisions of the Act. For example, when a company is in default on a loan for business furniture and fixtures and the holder of the security interest forecloses and enters the business to repossess the furniture and fixtures, bulk sales reporting is not required.

4) A transfer of the majority of assets from one location to another location where a business has multiple locations and operates such locations under the same Certificate of Registration number is not a transfer that requires bulk sales reporting.

a) If any taxpayer outside the usual course of his business, sells or transfers the major part of any one or more of:

1) The stock of goods which he is engaged in the business of selling;

2) The furniture or fixtures;

3) The machinery and equipment of any business that is subject to the provisions of the Act; or

4) Real property

the purchaser or transferee of such assets shall, within 10 days after the sale or transfer, file a report of the sale or transfer with the Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a description of the property sold, the amount of the purchase price, and such other information as the Department may reasonably require. The seller or transferor shall pay from him under the Act up to the date of the sale or transfer, if any, due to the Department the amount of tax, penalty and interest. The seller or transferor, or the purchaser or transferee, at least 30 days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to audit the books and records of the seller or transferor or do whatever else may be necessary to determine how much the seller or transferor owes to the Department under the Act up to the date of the sale or transfer. The Department shall take such steps as may be appropriate to comply with such request.

b) The purchaser or transferee shall withhold enough of the purchase price to cover the amount of all tax, penalty and interest due and unpaid by the seller or transferor under the Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer, until the seller or transferor produces a receipt from the Department showing that such tax, penalty and interest have been paid or a certificate from the Department showing that no tax, penalty or

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c) Interest is due from the seller or transferor under the Act, the purchaser or transferee is relieved of any duty to withhold from the purchase price and of any liability for tax, penalty or interest due under the Act from the seller or transferor if the Department fails to notify the purchaser or transferee of the amount claimed by the Department to be due under the Act from the seller or transferor within 30 days after the sale or transfer has been reported to the Department where the seller or transferor or purchaser or transferee did not notify the Department of the intended sale or transfer at least 30 days before the date of the sale or if the Department fails to notify the purchaser or transferee of the amount claimed by the Department to be due under the Act from the seller or transferor within 10 days after the sale or transfer has been reported to the Department where the seller or transferor or purchaser or transferee did not notify the Department of the intended sale or transfer at least 30 days before it occurred and did request an audit or such other review as might enable the Department to determine how much it claims to be due under the Act from the seller or transferor up to the date of the sale or transfer.

d) If the seller or transferor fails to pay the tax, penalty and interest (if any) due from him under the Act and the Department makes a timely claim therefor against the purchaser or transferee as hereinabove provided, then the purchaser or transferee shall pay the amount so withheld from the purchase price to the Department. If the purchaser or transferee fails to comply with the requirements of this Section under the Act, the purchaser or transferee shall be personally liable to the Department for the amount owed under the Act by the seller or transferor to the Department up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

e) Any person who shall acquire any property or rights thereto which at the time of such acquisition is subject to a valid lien in favor of the Department shall be personally liable to the Department for a sum equal to the amount of taxes secured by such lien but not to exceed the reasonable value of such property acquired by him.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Numbers:
160.110
160.140
Proposed Action:
Amendment
Amendment
- 4) Statutory Authority: 35 ILCS 110 and 20 ILCS 2505/2505-100
- 5) A Complete Description of the Subjects and Issues Involved: Section 160.110 has been amended to reflect the provisions of Public Act 92-484, which provides an exemption for food for human consumption that is to be consumed off the premises where sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act. This rulemaking also amends Section 160.140, governing penalties, interest and procedures, to reflect the 6 year statute of limitations applicable (other than in the case of a failure to file a return required by the Service Use Tax Act) to the Service Use Tax Act.
- 6) Will these proposed amendments replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Jerilynn Gorden
Senior Counsel, Sales & Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

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(217) 782-6996

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Service customers.
- B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping.
- C) Types of professional skills necessary for compliance: Bookkeeping and accounting.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2001

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 160
SERVICE USE TAX

Section	Nature of the Tax
160.101	Definitions
160.105	Kind of Uses and Users Not Taxed
160.110	Collection Of The Service Use Tax By Servicemen
160.115	Persons Who Lease Tangible Personal Property to Exempt Hospitals
160.116	Persons Who Lease Tangible Personal Property to Governmental Bodies
160.117	Receipt For The Tax (Repealed)
160.120	Special Information For Users
160.125	Registration Of Servicemen
160.130	Serviceman's Return
160.135	Penalties, Interest And Procedures
160.140	Incorporation Of Illinois Service Occupation Tax Regulations By Reference
160.145	Claims To Recover Erroneously Paid Tax--Limitations--Procedures
160.150	Disposition Of Credit Memoranda By Holders Thereof
160.155	Refunds
160.160	Interest

AUTHORITY: Implementing the Service Use Tax Act [35 ILCS 110] and authorized by Section 2505-100 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-100].

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 8619, effective June 5, 1984; amended at 11 Ill. Reg. 5322, effective March 17, 1987; amended at 11 Ill. Reg. 9963, effective May 8, 1987; amended at 13 Ill. Reg. 9399, effective June 6, 1989; amended at 15 Ill. Reg. 5845, effective April 5, 1991; amended at 18 Ill. Reg. 1557, effective January 13, 1994; amended at 20 Ill. Reg. 7015, effective May 7, 1996; amended at 20 Ill. Reg. 16219, effective December 16, 1996; amended at 24 Ill. Reg. 8135, effective May 26, 2000; amended at 25 Ill. Reg. 5015, effective March 23, 2001; amended at 26 Ill. Reg. _____, effective _____.

Section 160.110 Kinds of Uses And Users Not Taxed

a) To prevent actual or likely multistate taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:

- 1) The use, in this State, of property acquired outside this State by a nonresident individual and brought into this State by such individual for his or her own use while temporarily within this State or while passing through this State;

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- 2) the use, in this State, of property which is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of such property, to the extent of the amount of such tax properly due and paid in such other state;
- 3) the temporary storage, in this State, of property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State. (Section 3-45 of the Act)
- b) Since the exemptions in subsections (a)(1), (2) and (3), immediately above, do not exist as far as the Service Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Service Use Tax purposes insofar as the serviceman is merely collecting Service Use Tax to reimburse himself for Service Occupation Tax on the same property, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Service Use Tax liability. Therefore, the exemptions in subsections (a)(1), (2) and (3) above would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Service Occupation Tax liability on the part of the serviceman in the same transaction.
- c) The Service Use Tax does not apply to the use, in this State, of property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State. (Section 3-60 of the Act)
- d) Where a business that is not operated in Illinois, but which does operate in another state, is moved to Illinois or opens up an office, plant or other business facility in Illinois, such business shall not be taxed on its use, in Illinois, of used property which such business bought outside Illinois and used outside Illinois in the operation of such business for at least 3 months before moving such used property to Illinois for use here. (Section 3-60 of the Act)
- e) The Service Use Tax does not apply to the use of tangible personal property by any corporation, society, association, foundation or institution, organized and operated exclusively for charitable, religious or educational purposes, or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55

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years of age or older, when purchased from a serviceman as an incident to a sale of service. However, effective July 1, 1987, the Service Use Tax will apply to the entities noted above unless such entities have an active exemption identification number issued by the Department. (Section 2(3) of the Act) Effective March 17, 1965, purchases by State chartered banks and by Federal and State savings and loan associations for use, when the purchase is made from a serviceman as an incident to his sale of service, are subject to the Service Use Tax. Effective February 1, 1970, purchases by national banks for use, when the purchase is made from a serviceman as an incident to his sale of service, are also subject to the Service Use Tax, provided that such tax does not apply to property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.

f) Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of game or game birds purchased incident to a sale of service at:

1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]),

2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]), or

3) a hunting enclosure approved through rules adopted by the Department of Natural Resources. (Section 3-5 of the Act)

g) Beginning July 1, 1999, the Service Use Tax does not apply to the use, in this State, of fuel acquired outside of this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce. (Section 3-5 of the Act)

h) Since transfers of tangible personal property by de minimis servicemen who incur Use Tax as described in 86 Ill. Adm. Code 140.108 do not constitute sales of service under Section 2(g) of the Service Occupation Tax Act, customers of such de minimis servicemen do not incur Service Use Tax liability on such transfers.

i) food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 110/3-5].

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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Section 160.140 Penalties, Interest And Procedures

Civil When-civil penalties, provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation (except that in the case of a failure to file a return required by the Service Use Tax Act, no notice of tax liability shall be issued on and after July 1 and January 1 covering tax due with that return during any month or period more than 6 years before that July 1 or January 1, respectively) to the extent not inconsistent with the provisions of the Service Use Tax Act, are the same under the Service Use Tax Act as those imposed under the Retailers' Illinois-Service Occupation Tax Act, and Section 3-7 of the Uniform Penalty and Interest Act. (See 35 ILCS 110/12.) For information concerning civil penalties and interest see the Uniform Penalty and Interest Act [35 ILCS 735/3-1---735/3-9] and 86 Ill. Adm. Code 700. For information concerning criminal penalties, see Section 15 of the Service Use Tax Act.

(Source: Amended at 26 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Standards for Award of Grants: School Construction Program

2) Code Citation: 71 Ill. Adm. Code 40

3) Section Numbers: Adopted Action:
 40.100 Amendment
 40.110 Amendment
 40.130 Amendment

4) Statutory Authority: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Section 5-55 of that Act and the School Construction Law [105 ILCS 230].

5) Effective date of Amendments: October 24, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 6, 2001; 25 Ill. Reg. 8054

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In Section 40.130 (7)(F)(ii) after "documentation" added "(appraisals, bills, etc.)". In Section 40.130(8)(G) after "Proof" added "(referendum, resolution, etc.)".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace any emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments are an update, based on three years of experience with the current school grant program. Specifically included are technical corrections and clarifications of existing provisions, as well as deletion of provisions for CDB oversight and approval of site selections. Under the current program, authority for site selections rests with the school district.

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16) Information and questions regarding these adopted amendments shall be directed to:

Claire Gibson, Deputy Chief Counsel
 Capital Development Board
 3rd Floor, Wm. G. Stratton Bldg.
 Springfield, Illinois 62706
 217/782-1392

The full text of the adopted amendments begins on the next page:

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TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
 CHAPTER I: CAPITAL DEVELOPMENT BOARD
 SUBCHAPTER a: RULES

PART 40

STANDARDS FOR AWARD OF GRANTS:
 SCHOOL CONSTRUCTION
 PROGRAM

Section	Definitions
40.100	General
40.110	Planning Assistance Grants (Repealed)
40.120	Construction Grants
40.130	Debt Service Grants (Repealed)

AUTHORITY: Implementing the Capital Development Board Act [20 ILCS 3105] and authorized by Section 5-55 of that Act and the School Construction Law [105 ILCS 230].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1890, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20342, effective October 1, 1984; amended at 9 Ill. Reg. 17345, effective October 29, 1985; amended at 13 Ill. Reg. 6973, effective April 21, 1989; amended at 20 Ill. Reg. 15244, effective November 15, 1996; emergency amendment at 22 Ill. Reg. 2597, effective January 13, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 9518, effective May 21, 1998; emergency amendment at 23 Ill. Reg. 6521, effective May 12, 1999, for a maximum of 150 days; emergency expired on October 9, 1999; amended at 23 Ill. Reg. 10788, effective August 20, 1999; emergency amendment at 23 Ill. Reg. 11320, effective August 27, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 233, effective December 27, 1999; amended at 25 Ill. Reg. 14364, effective 01/24/2001.

Section 40.100 Definitions

The following definitions shall apply to this Part:

"Enrichment Cost" means expenditures not included in the recognized project cost and designated as ineligible expenditures by the Capital Development Board.

"Eligible Expenditures" means those elements of the proposed project that are included in the recognized project cost.

"Local Share" means funds provided by the local district equal to the recognized project cost subtracting the State share.

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"Recognized Project Cost" means the total of eligible costs that are funded with State and local funds necessary to provide for the acquisition, development, construction, reconstruction, rehabilitation, improvement, architectural planning and installation of capital facilities consisting of buildings, structures, durable equipment and land for educational purposes as determined by the Capital Development Board.

"State Share" means the product of the district grant index and the recognized project cost, as determined by the Capital Development Board.

"Unit Cost" means a dollar/sq.ft. cost used for determining the recognized project cost for new construction projects and additions. Costs include Architect/Engineer (A/E) A/E design fees, building construction to the five foot line, fixed equipment, associated legal fees and contingency.

(Source: Amended at 25 Ill. Reg. 14364, effective 01/24/2001)

Section 40.110 General

a) The Capital Development Board (hereinafter "Board") will implement the School Construction Law through its School Construction Program (hereinafter "SCP").

b) The Board will make no grant awards prior to compliance by the school district with the Illinois State Board of Education (ISBE) regulations for grant entitlement [105 ILCS 230/5-5].

c) The ISBE will forward the application to the Board to determine if the program statement has been provided and has adequate information to schedule a survey by the Board. Simultaneous with the submission of applications and district facility plans to the State Board of Education, such documents shall be submitted to the Board. The Board shall request submission of additional information in those cases in which the applications and facilities plans do not include all data necessary to fully evaluate the building needs, based on enrollment and anticipated program. The Board shall request submission of additional information related to enrollment and anticipated program where the application and facilities plans need further clarification. contain discrepancies in information and/or are missing information needed to fully evaluate the building needs.

d) Proof of local share will be required by the Board prior to a grant award. A school district School districts failing to have access to the local share of funds within the time period set forth in Section 40.130(c)(8)(G) (e)(7)(f) of this Part shall be reprioritized and must update its application to establish its priority ranking for the following fiscal year.

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e) If the school district School-District begins the project in some manner (such as letting bids, awarding contracts, or starting actual construction) after entitlement is issued by the ISBE State-Board-of Education, such actions shall have no effect on the eligibility for a construction grant.

f) Grant awards will be issued in accordance with ISBE's priority ranking.

g) School districts shall enter into intergovernmental agreements with the Board that EBB-which may include, but are not limited to, provisions for the following:

1) That funding of the State share in progress payments to school districts for project costs will be made in a manner--that meets--the--needs--of--the--particular--construction--project, upon proper submittal of required documentation by the school district.

2) That Agreement--of the school district agrees to comply with all applicable statutes, codes, and rules.

3) That establishment Establishment and maintenance of a separate set of accounts is required for the construction, study, and planning of the project in accordance with generally accepted accounting principles (FASB Accounting Standards, Financial Accounting Standards Board, High Ridge Park, Stanford, Connecticut 06905 (1998)).

4) That access Access to the work, materials, payrolls, and other data and records relevant to the project for purposes of audit and inspection by the Board EBB, or other authorized agencies is required.

5) That the architect Architect retained by the school district School-District shall certify on each payment submittal that the expenditures were in accordance with the provisions of the appropriation Act and the terms of the intergovernmental agreement.

6) That increases increases in project costs added by change order shall not increase the amount of the State share.

7) That if the school district if-the-School-District requests the Board EBB to assume administrative or oversight duties, the extent of those duties requested shall be described in the intergovernmental agreement.

8) Other provisions as may be necessary, including those required to ensure a legal and binding agreement.

(Source: Amended at 25 Ill. Reg. 14364, effective 06/24/00)

Section 40.130 Construction Grants

Prior to the award of a construction grant, school districts shall meet the following requirements:

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a) Program Statements

Program statements Statements must be submitted to the Board as part of the school district's Application for Construction Grant Entitlement for proposed facilities and sites requiring SCP funding. Program statements Statements must conform to the School Construction Law Project Standards SEP--Educational-Facilities-Program-Statement Guidelines as developed by the Board and must which--will address, but need not be limited to, the following:

1) project description and rationale Project--Description--and Rationale

2) occupant capacity Occupant-Capacity

3) site analysis Site-Analysis

4) project design Project-Design

5) funding sources and cost estimates Funding--Sources--and--Cost Estimates

6) time schedule of major events Time-Schedule-of-Major-Events

b) Prohibited Uses

Program statements shall not include any on-going operational costs or any construction projects for which the General Assembly and the Governor have approved specifically designated funds.

c) Standards for School Site Selection and Approval

1) The local school district board shall select the sites for all new projects subject-to-the-determination-of-the-Board-that-the proposed-site-meets--all--minimum-engineering--and--construction standards--or--requirements.

2) Suitability for Development and Construction

A) The site should must be free of physical structures, topographical features or subsurface physical conditions that would preclude necessary construction, present insurmountable obstacles to safety or normal utilization, shorten building life, cause excessive delays in project completion, or cause costs to exceed the funds available. "Necessary construction" shall include but not necessarily be limited to: buildings, utility lines, storm water disposal arrangements and paving. The-local-district-shall provide--a--report--acceptable--to--the-Board--on--soil conditions--based--on--the-removal-of-soil-for-testing--the cost-to-the-local-school-district--of--the--soil--test--and report--of--that-test-shall-be-considered-as-a-credit-to-the local-share-of-the-recognized-project-cost-if--the--site--is approved--and--a-grant-award-is-made.

B) The site should must not be subject to existing or foreseeable, harmful or disruptive environmental hazards and nuisances. Such hazards and nuisances may include, but are not necessarily limited to: excessive dust, smoke, noise, odors, air pollutants, soil pollutants, floods, ground water incursions, vibrations, explosions, and electrical discharges. Site acquisition shall be subject to the

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Farmland Preservation Act [505 ILCS 75], Interagency Wetland Policy Act of 1989 [20 ILCS 830], Illinois State Agency Historic Resources Preservation Act [20 ILCS 3410], Archaeological and Paleontological Resources Protection Act [20 ILCS 3435], and the Illinois Endangered Species Protection Act [520 ILCS 10], and the Environmental Protection Act [415 ILCS 58.15], as may be applicable.

3) Availability of Site

A) The school local district shall have a period of 150 days from the time of grant award to acquire title to the site, or rights of use and exclusion sufficient to carry out the purposes and programs of the school. Such time period may be extended for 60 days by the Executive Director. Any further extension must be approved by the Board. Extensions will be granted in those cases in which there is a reasonable expectation that the district will be able to acquire the site within the period of the extension and the delay has been occasioned by a condition beyond the control of the district, such as a delay in acquiring a title commitment.

B) A grant will not be awarded until the Board has had a reasonable opportunity to enter upon the site, inspect it in detail, and conduct whatever site tests are deemed necessary to establish the suitability of the site for school purposes.

C) The Board will not approve a site unless its development and use for the proposed school is in compliance with applicable laws, or unless action has been taken to bring variation of same into compliance.

B) When street vacations, utility relocations, or such action will be required prior to start of construction, the local district must present documentation that such actions will be approved by the responsible local governmental units before the Board will approve the site.

4) Site Size and Configuration

A) The proposed site should must contain usable space sufficient in size and of regular configuration so as to accommodate the school's on-site program as well as to accommodate ancillary functions that are better served on-site than off-site, such as parking, bus loading and unloading, casual student assembly and play, and pedestrian movement between different points on the site.

B) The school's on-site program shall be defined to include the school's instructional program and any other activities and events the applicant school district plans to conduct on the site. The applicant may tailor its on-site program to fit the site proposed. Determination of the adequacy of the site's space in terms of the number of students shall be based on the design capacity of the school building.

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E) Space for Buildings
In addition to those portions of the site required for other purposes, there must be a portion or portions of the site that are of such size, shape and physical quality that they are sufficient to accommodate the buildings that would be required by the maximum design enrollment of the school. This "building reserve" must be at least sufficient in ground area to provide for gross floor space as set forth in the section on space standards for new construction subsection (c)(4)(B) of this Section. For facilities with more than one floor the "building reserve" must be at least sufficient in ground area to provide for one half the gross floor space.

B) Non-Building Space

i) At a minimum, the site must provide amounts of space in addition to that reserved for buildings to meet "Special Requirements" as defined in subsection (c)(4)(E) of this Section of a shape, character and location that the site can readily be improved to provide areas suitable for physical education and recreation, any planned accommodation of vehicles, and the accommodation of outdoor access, circulation and evacuation in accordance with EBHS-Bist-of-Higible Capital Infrastructure Program Expenditures for Construction of New School Facilities (see subsection (c)(7) of Bist-of-Higible Expenditures).
For additions to existing schools, the addition should not be planned on existing open space and/or playground area of existing schools, unless it can be demonstrated that the construction of the addition will not reduce the amount of space necessary to fulfill the program and provide adequate recreational space.

B) Special Requirements

Irrespective of required minimums, the site must be of sufficient size to provide for the following needs as indicated:

i) Space for Outdoor-On-Site Program
There must be a portion or portions of the site in addition to those reserved for other purposes that are of such size, shape and physical character that they can be readily improved to accommodate the safe conduct of the outdoor portions of the on-site school program. The site must permit the safe conduct of a physical education program that meets district standards, taking into account the varying physical capacities of students, types and amounts of activities in the physical education program, and the

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- daily-and-yearly-time-schedule-of-the-school-
- +++ Accommodation-of-Vehicles
 Those-must-be-ports-of-the-site-in-addition-to
 those-necessary-for-other-purposes-that-are-of-such
 size-shape-physical-quality-and-location-that-they
 can-provide-spaces-for-vehicles-as-indicated-below
 without-contra-vening-local-zoning-ordinances---safe
 loading-and-unloading-areas-for-school-buses-where
 areas-are-necessary-to-the-safety-of-students-from
 street-traffic---secure-and-convenient-parking-spaces
 for-staff-visitors-and-students-in-conformance-with
 district-policies-and-safe-accommodation-of-delivery
 and-service-vehicles-involved-in-serving-the-school-
- +++ Access-Circulation-Evacuation-Assembly
 There-must-be-ports-of-the-site-of-such-size-
 shape-physical-quality-and-location-that-they-can-be
 improved-to-provide-unobstructed-exterior-avenues-of
 escape-from-the-exits-of-all-proposed-buildings-and
 the-areas-adjacent-to-buildings-in-the-event-that
 evacuation-is-necessary---safe-and-convenient
 circulation-by-students-between-and-among-the
 buildings---and-outdoor-activity-areas-of-the-site
 safe-accommodation-for-the-unsupervised-outdoor
 assembly-of-students-and-their-pastimes-before-school
 after-school-at-lunch-breaks-and-at-recesses---safe
 accommodation-of-the-outdoor-assemblies-of-students
 and-spectators---occasional---by-school-sponsored
 spectator-events-to-be-held-on-the-site-
- F) Variance-of-Site-Size-and-Configuration
 The-Board-will-approve-a-proposed-site-which-does-not-meet
 the-minimum-requirements-of-this-subsection-(c)(4)-when-all
 the-following-criteria-have-been-met:
- ++ The-local-school-board-petitions-the-State-Board-of
 Education-and-the-Board-for-a-variance-from-the
 minimum-requirements-of-this-subsection-(c)(4)-stating
 with-specificity-the-reasons-for-such-variance-
- +++ The-State-Board-of-Education-certifies-to-the-Board
 that-the-variance-complies-with-all-requirements-of
 the-School-Code-and-rules-of-the-State-Board-of
 Education-(23 Ill. Adm. Code-151)-
- 5) Utilities and Services
- A) Water Supply
 Water must be made available at the site in sufficient
 volume and delivery rates and of appropriate quality to
 serve the firefighting needs of the proposed school as well
 as to accommodate other forms of water consumption.
- B) Sanitary Sewage Disposal
 The location or character of the site must not prevent the

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- disposal of sanitary sewage from the school.
- C) Storm Water Disposal
 The location or character of the site must not prevent the
 disposal of storm water from the school.
-) Electric, Power, Telephone, Gas
 The site must present no obstacles to the provision of
 electric power, telephone services, and whatever gas service
 the school may require at the point in the construction
 process when utility hook-ups are made.
- E) Solid Waste Management Systems
 Solid waste management services must be available to the
 site.
- 6) Architect/Engineer (A/E) Selection Architect-Engineer-Selection
 The selection of an architect/engineer architect-engineer shall
 be in accordance with the Local Government Professional Services
 Selection Act [50 ILCS 510].
- 7) List-of Eligible and Ineligible Expenditures:
 A) The Board EBB will participate in the funding of academic
 facilities for all programs approved by the ISBE State-Board
 of-Education.
- B) EBB's-participation-in-the-funding-of-administrative
 facilities-is-limited-to-that-space-required-for-the
 administration-of-the-educational-and-support-program-of-the
 school. The Board EBB will not participate in funding
 administrative facilities intended for district
 administration.
- C) The Board EBB will not fund facilities intended for
 commercial use by profit making organizations. This is not
 meant to exclude facilities to be operated by non-profit
 organizations such as student groups, PTAs, etc.
- D) Although the Board EBB encourages development of facilities
 intended for joint use by school and community, the Board's
 EBB's participation in the funding of facilities intended
 for joint use by school and community is limited to those
 items required to meet the needs of the school's educational
 and support programs.
- E) The Board EBB will not participate in funding facilities
 designed exclusively for interscholastic activities. For
 example, although EBB-will-fund-locker-facilities-in
 sufficient-numbers-to-provide-for-the-physical-education
 program-needs-of-a-school's-own-students-EBB-will-not-fund
 separate-locker-facilities-for-the-exclusive-use-of-visiting
 school-teams-
- F) Off-site improvements are defined as any improvements
 outside of the property line. Off-site improvements are not
 recognized as eligible project costs except under
 exceptional circumstances and only in those cases where the
 off-site improvements are necessary to the functional

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operation of a school facility. The following specific policies apply to off-site improvements:

- i) Off-site improvements that exceed the requirements needed for the project are ineligible project costs. For example, if a larger water main is desired by the locality than is needed for the school project itself, the Board EBB will not participate in any cost attributable to the increased size of the main.
- ii) The district must provide documentation (appraisals, bills, etc.) certifying that local and/or federal funding sources are not available to the district or any other public body for off-site improvements before the Board EBB will consider participation in their funding.
- iii) The Board's EBB's participation in funding off-site improvements is only permitted if the off-site property or interest in the property, such as an easement or leasehold, is owned by a public body.
- iv) Prior to grant award, as part of the pre-grant analysis, EBB will perform a cost-benefit analysis regarding the implications of off-site improvements for alternative sites. In evaluating need for off-site improvements, EBB will consider trade-offs among factors such as cost of off-site improvements, cost of site and desirability of site location. For example, site acquisition cost plus major off-site improvements cost may still be less for one site than for another site requiring only minor off-site improvements. In such special cases, a site requiring major off-site improvements could be preferred. However, the specific policies in subsections (c)(7)(F)(i), (ii) and (iii) still apply.
- G) On-site improvements may be defined as any improvements outside the building's five foot 5-foot line but inside the property line of the site. The Board's EBB's participation in funding on-site improvements is limited to those minimum requirements that are necessary to making the site functionally operational.
- H) EBB will evaluate space types of a sophisticated nature that support specialized activities in an elementary, middle/junior-high school or high school. EBB will identify facilities of this type. Justification must be based on programmatic need. Such justification, to obtain the support of EBB, must have the support and concurrence of the State Board of Education.
- I) EBB will participate in the funding of vocational/technical facilities for all programs approved by the State Board of Education.

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- 8) State and Local Financial Participation in School Construction Projects
 - A) Determination of Recognized Project Cost
 - i) Recognized project cost shall be based upon calculations in accordance with the School Construction Law Project Standards list of eligible expenditures (see also subsection (c)(7)) and shall include unit cost (\$/sq.ft.) as follows: buildings constructed to the five foot line, design and construction contingencies, building fixed equipment; plus additional associated costs as deemed appropriate by the Board in consultation with local school districts as follows: site improvements including related A/E fees and reimbursements, land acquisition and associated legal fees for the project site acquired, movable equipment, and utility service lines, both on-site and off-site, and special foundation construction and related A/E fees deemed necessary as a result of unusual sub-surface soil conditions.
 - ii) The recognized project costs initially calculated by the Board EBB will establish the maximum acceptable cost of the eligible expenditures. If the bid price received by the district from the various contractors for the eligible expenditures is less than the bid estimate amount included in this initial calculation, then the recognized project cost will be reduced by the amount of the difference.
 - iii) The Board shall establish and include in the School Construction Law Project Standards list of eligible expenditures (see also subsection (c)(7)) unit cost guidelines for determining the recognized project cost limitations for elementary, secondary and vocational school construction based upon periodic review and revision of maximum cost per gross square-foot allowances.
 - B) Project Standards for New Construction and Additions
 - i) General

The Board EBB shall establish detailed project standards including space and capacity standards in the School Construction Law Project Standards list of eligible expenditures (see also subsection (c)(7)). New schools with adequate space for all necessary instructional and ancillary activities require more space per students than additions to existing schools. Different space standards are required to accommodate different grade levels, i.e., Pre-K-6, 7-9, and 9-12. Economies of scale in terms of space per student can

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- be anticipated for larger schools.
- ii) Square Footage for Calculation of Unit Costs
The following maximum standards are established for the determination of the State share of the recognized project cost in connection with a construction grant:

Square Foot Per StudentFor a New School:

New Elementary School
Gross square footage per student 100
Gross square footage per additional student beyond 240 students 82

New Middle/Junior High School
Gross square footage per student 120
Gross square footage per additional student beyond 400 students 100

New High School
Gross square footage per student 140
Gross square footage per additional student beyond 600 students 110

Classroom Additions:

Elementary School
Gross square footage per student for additions for 250 or more students 100
Gross square footage per student for additions for less than 250 students 82

Middle School
Gross square footage per student for additions for 250 or more students 120
Gross square footage per student for additions for less than 250 students 100

High School
Gross square footage per student for additions for 250 or more students 140
Gross square footage per student for additions for less than 250 students 110

ELEMENTARY (Pre-K-6)

Gross-square-feet

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per-student 100
per-additional-student-beyond-240 82

MIDDLE/JUNIOR-HIGH-SCHOOL-(7-9)

Gross-square-feet
per-student 120
per-additional-student-beyond-400 100

HIGH-SCHOOL-(9-12)

Gross-square-feet
per-student 140
per-additional-student-beyond-600 110

C) Renovation Projects Remodeling-or-Rehabilitation

The recognized project cost for renovation projects is calculated by an estimation of the eligible project costs. Eligible renovation costs are for renovations to existing facilities determined to be functionally over 100 years old (as determined by ISBE) or for renovation projects in existing facilities that provide additional classroom capacity.

The recognized project cost for remodeling--rehabilitation projects must be developed on an individual basis with space per student not to exceed standards set for construction as set forth in subsection (c)(7)(B) and unit costs not to exceed standards for new construction as established from time-to-time by the Board.

D) Unit Costs Premises-for-Space-Standards

Unit costs (\$/sq.ft.) used for determining the recognized project cost, including A/E design fees, building construction to the five feet line, fixed equipment, and a contingency shall be established by the Board and included in the School Construction Law Project Standards (see also subsection (c)(7)). In establishing unit costs the Board shall be guided by current costs within the construction industry and the goal of receiving fair value for public funds expended.

- i) All necessary types of space--shall--be--included--for freestanding schools.
- ii) An average space per student can be derived from space type--need--by--level--elementary, middle/junior-high and high school.
- iii) Space needs for additions to existing schools--may--be less than needs for freestanding schools.
- iv) A building efficiency (net assignable space to total space) of 65% is the acceptable minimum.

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v) Unit-costs--(\$/sq-ft)--used--for--determining--the recognized--project--cost--including A/B design-fees, building-construction-to-the-five-feet-line--fixed equipment--associated--legal--fees--and-a-contingency shall-be-no-greater-than-those-unit-costs--established from-time-to-time-by-the-Board--Said-unit-costs-are determined-as-needed-and-are-established-by-the-Board and-included-in-the-list-of-Eligible-Expenditures-(see subsection-(c)(7))--in--establishing-unit-costs-the Board-members-shall-be-guided-by-current-costs--within the--construction--industry--and-the-goal-of-receiving fair-value-for-public-funds--expended.

E) Limits on SCP Participation and Site Cost
Districts will not receive grant funding Board-assistance-or credit for acreage acreages beyond the following maximums:
Elementary (Pre-K-6) - 5 acres plus 1 acre per 100 students,
Middle/Junior High (7-9) - 15 acres plus 1 acre per 100 students, and

F) High School (9-12) - 20 acres plus 1 acre per 100 students.
The State and local share of the recognized project cost shall be computed by multiplying the recognized project cost by the grant index Grant-index as defined by the School Construction Law and determined by the ISBE State-Board-of Education. For each grant issued after September 1, 1999, the equalized assessed valuation and average daily attendance used in calculating a district's grant index Grant-index shall be taken from the district's general State aid claim filed in the fiscal year in which the grant entitlement is made. The average daily attendance to be used shall be the district's best three months' average daily attendance. A grant index Grant-index shall lapse if a grant is not awarded within 36 months after entitlement, and a new grant index Grant-index shall be issued based upon the district's most recent general State aid claim.

G) School local districts must have access to the local share of the recognized project cost before a grant award will be given. Proof (referendum, resolution, etc.) of the local share will be required by the Board. Within 90 days after the grant-award-by-the-Board--Such-period-may-be-extended-by the-Executive-Director-for-a-maximum-period-of--30--days--if the--district--demonstrates-that-appropriate-steps-have-been taken-to-obtain-the-district's--share--of--the--recognized project--cost-and-that-an-additional-30-days-is-necessary-to complete-the-process--local-school-districts--are--urged--to begin--referendum--proceedings-upon-grant-entitlement-by-the State-Board-of-Education.

H) The local share of the recognized project cost may be placed in a local trust account pursuant to 71 Ill. Adm.

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Code 30.

I) School districts may add to a project cost beyond the recognized project cost with local funds. Funds for such project supplements may be deposited in local trust accounts.

J) All enrichment project costs that are not included in the recognized project cost and designated as ineligible expenditures by the Capital-Development Board will be paid by the school local district.

(Source: Amended at 25 Ill. Reg. 14364, effective 01/24/2000)

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- 1) Heading of the Part: Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1120
- 3) Section Numbers:
1120.2570 New Section
1120.4550 New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500]
- 5) Effective Date of Amendments: November 10, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 13, 2001; 25 Illinois Register 8475
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposed and final version: The Office of the Comptroller made only the technical, punctuation or grammar changes as agreed upon with JCAR. No substantive changes were made.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there amendments pending on this Part? No

15) Summary and Purpose of Amendments: The adopted rules codify an affirmative action plan for contracts awarded by the Office of the Comptroller. The rules require all Office of the Comptroller vendors and bidders to refrain from unlawful discrimination and to take affirmative action to eliminate the effects of past discrimination. The rules specify an equal opportunity clause to be inserted in each contract. Further, the rules establish the goal that not less than 5% of the total dollar amount of Office of the Comptroller contracts be awarded to businesses owned by minorities, 5% to female businesses, and 2% to businesses owned by persons with disabilities. This goal is consistent with that expressly imposed on contracts awarded by State agencies, but not State constitutional

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officers, by the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

- 16) Information regarding these adopted amendments shall be directed to:

Charles Schmadeke
General Counsel
Office of the Comptroller
201 State Capitol
Springfield, Illinois 62706
217/782-6000

The full text of the adopted amendment begins on the next page:

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS AND PROPERTY
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XIV: COMPTROLLER

PART 1120

STANDARD PROCUREMENT

SUBPART A: GENERAL

Section
1120.01 Title
1120.05 Policy
1120.08 Illinois Procurement Code
1120.10 Application
1120.15 Definitions of Terms Used in this Part
1120.25 Property Rights

SUBPART B: PROCUREMENT RULES

Section
1120.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section
1120.1002 Conduct of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section
1120.1510 Illinois Procurement Bulletin
1120.1560 Supplemental Notice
1120.1570 Error in Notice
1120.1580 Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section
1120.2005 General Provisions
1120.2010 Competitive Sealed Bidding
1120.2012 Multi-Step Sealed Bidding
1120.2015 Competitive Sealed Proposals
1120.2020 Small Purchases
1120.2025 Sole Economically Feasible Source Procurement
1120.2030 Emergency Procurements
1120.2035 Competitive Selection Procedures for Professional and Artistic Services
1120.2036 Other Methods of Source Selection
1120.2037 Tie Bids and Proposals

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1120.2038 Mistakes
1120.2040 Cancellation of Solicitations; Rejection of Bids or Proposals
SUBPART F: SUPPLIERS, PREQUALIFICATION, AND RESPONSIBILITY

Section
1120.2043 Suppliers
1120.2044 Vendor Lists
1120.2045 Prequalification
1120.2046 Responsibility

SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

Section
1120.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section
1120.2050 Specifications

SUBPART I: CONTRACT TYPE

Section
1120.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section
1120.2060 Duration of Contracts - General

SUBPART K: CONTRACT MATTERS

Section
1120.2560 Prevailing Wage
1120.2570 Equal Employment Opportunity: Affirmative Action

SUBPART L: CONTRACT PRICING

Section
1120.2800 All Costs Included

SUBPART M: CONSTRUCTION AND CONSTRUCTION-RELATED PROFESSIONAL SERVICES

Section
1120.3005 Construction and Construction-Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

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Section
1120.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section
1120.4505 Procurement Preferences
1120.4510 Resident Bidder Preference
1120.4530 Correctional Industries
1120.4535 Sheltered Workshops for the Disabled
1120.4540 Gas Mileage
1120.4545 Small Business
1120.4550 Contracting with Business Owned and Controlled by Minorities, Females, and Persons with Disabilities

SUBPART P: ETHICS

Section
1120.5013 Conflicts of Interest
1120.5015 Negotiations for Future Employment
1120.5020 Exemptions
1120.5030 Revolving Door
1120.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

SUBPART Q: CONCESSIONS

Section
1120.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section
1120.5510 Complaints Against Vendors
1120.5520 Suspension
1120.5530 Settlement and Resolution of Contract and Breach
1120.5540 Violation of Statute or Rule
1120.5550 Protests

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section
1120.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section
1120.6500 General
1120.6510 State Use of Other Contracts

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1120.6520 No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1120.7000 Severability
1120.7010 Government Furnished Property
1120.7015 Inspections
1120.7020 Records and Audits
1120.7025 Written Determinations
1120.7030 No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 500/1-30].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12087, effective July 1, 1998, for a maximum of 150 days; emergency expired November 27, 1998; adopted at 23 Ill. Reg. 858, effective January 8, 1999; amended at 25 Ill. Reg. 14380, effective NOV 10 2001.

SUBPART K: CONTRACT MATTERS

Section 1120.2570 Equal Employment Opportunity: Affirmative Action

- a) Every party to a public contract and every eligible bidder shall:
- 1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
 - 2) Comply with the procedures and requirements of the Department of Human Rights' regulations concerning equal employment opportunities and affirmative action;
 - 3) Provide such information with respect to its employees and applicants for employment and assistance as the Department of Human Rights may reasonably request;
 - 4) Have written sexual harassment policies that include, at a minimum, the following information:
 - A) the illegality of sexual harassment;
 - B) the definition of sexual harassment under State law;
 - C) a description of sexual harassment, utilizing examples;
 - D) the vendor's internal complaint process, including penalties;
 - E) the legal recourse, investigation and complaint processes available through the Department of Human Rights and the Human Rights Commission;
 - F) directions on how to contact the Department of Human Rights and the Human Rights Commission;
 - G) protection against retaliation as provided by Section 6-102

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- of the Illinois Human Rights Act [775 ILCS 5/6-102].
A copy of the policies shall be provided to the Department of Human Rights upon request.

- b) Section 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-105(A)] authorizes the Department of Human Rights to promulgate policies, rules, and regulations to implement the provisions of the Illinois Human Rights Act applicable to eligible bidders and public contractors. The Department of Human Rights has promulgated rules (44 Ill. Adm. Code 750) that establish public contractor and eligible bidder duties, obligations, and reporting requirements. 44 Ill. Adm. Code 750.210 requires certain employers to register with the Department of Human Rights in order to be eligible for the award of certain public contracts.
- c) Every contract entered into or awarded by the IOC shall include the following provision:

EQUAL EMPLOYMENT OPPORTUNITY

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act, or the Rules and Regulations of the Illinois Department of Human Rights (Department), the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- 1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization;
- 2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the areas from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability.

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- or an unfavorable discharge from military service;
That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules, the contractor will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder;
- 4) That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules;
- 5) That it will permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules; and
- 6) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and, further, it will promptly notify the Office of the Comptroller and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

(Source: Added at 25 Ill. Reg. 14380; effective NOV 10 2001)

SUBPART O: PREFERENCES

Section 1120.4550 Contracting with Business Owned and Controlled by Minorities, Females, and Persons with Disabilities

- a) The Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] (Act) sets a goal (minimum 12%) for contracting with businesses owned by minorities, females, or persons

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with disabilities.

- b) The IOC hereby establishes a goal that at least 12% of the dollar amount of contracts be awarded to businesses owned by minorities, females, or persons with disabilities. Of that 12%, 5% shall be for female-owned businesses, 2% for businesses owned by persons with disabilities and not-for-profit entities for the disabled, and the remaining 5% for minority-owned businesses, unless these amounts are modified by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of the Act [30 ILCS 575/5].
- c) The goal established in subsection (b) may be satisfied, in whole or in part, by counting expenditures made by IOC vendors to subcontractors.
- d) The CPO may undertake the following actions to reach the goal established in subsection (b):
- 1) focus solicitation upon vendors from the list of certified businesses ascertained by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities;
 - 2) advertise in appropriate media;
 - 3) divide job or project requirements, when economically, technically, and programmatically feasible, into smaller tasks or quantities;
 - 4) eliminate extended experience or capitalization requirements when programmatically feasible;
 - 5) identify specific, proposed projects, purchases, or contracts as particularly appropriate for participation by businesses owned by minorities, females, or persons with disabilities; and
 - 6) establish set-asides in accordance with applicable law.
- e) The Act and the rules promulgated thereunder (44 Ill. Adm. Code 10) set forth the procedures for certification as a business owned by minorities, females, or persons with disabilities.
- f) The CPO shall acquire and maintain a list of businesses certified by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities. The names and addresses of certified vendors shall be made available to the public.
- g) Those categories of contracts and expenditures exempted by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities as set forth in its rules (44 Ill. Adm. Code 10.22) are exempt from the contracting goal established in this Section. In addition, the CPO may exempt specific contracts or expenditures from the goal prior to the advertisement for bids or solicitation of proposals, when the CPO has determined, based upon the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, females, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the specific contract or expenditure. A determination of the CPO made under this subsection shall be reduced to writing and published in the

COMPTROLLER

NOTICE OF ADOPTED AMENDMENTS

Illinois Procurement Bulletin.

(Source: Added at 25 Ill. Reg. 14380, effective NOV 10 2001)

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Policies
- 2) Code Citation: 2 Ill. Adm. Code 3002
- 3) Section Numbers: Adopted Action:
3002.1100 Amended
- 4) Statutory Authority: Illinois Procurement Code [30 ILCS 500]
- 5) Effective Date of Amendment: October 24, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in the Illinois Register: 8-10-01; 25 Ill. Reg. 10093
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: Deletion of Legislative Space Needs Commission as a construction agency.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: To detail the requirements of the Procurement Policy Board for receiving written justifications from State agencies for specific sole source, small and emergency procurements. The Board has a statutory responsibility to conduct such a review.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Tiffany Smith
Procurement Policy Board
511 W. Capitol Suite 102
Springfield IL 62704

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED AMENDMENT

The full text of the adopted amendment begins on the next page:

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
 SUBTITLE E: MISCELLANEOUS STATE AGENCIES
 CHAPTER LX: PROCUREMENT POLICY BOARD

PART 3002
 GENERAL POLICIES

Section	Authority and Purpose
3002.100	Definitions
3002.200	Agenda
3002.300	Meetings of the Board
3002.400	Board Review
3002.500	Publication of Notices, Proposals and Action by the Board
3002.600	Comments from the Public
3002.700	Petition to the Board by Public
3002.800	Submission of Complaints
3002.900	Obtaining Other Information
3002.1000	Coordination with State Agencies and the General Assembly
3002.1100	Coordination with the Joint Committee, Administrative Code Division and CPOs
3002.1200	

AUTHORITY: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 23 Ill. Reg. 6895, effective June 1, 1999; amended at 25 Ill. Reg. 14390, effective 01-24-2001.

Section 3002.1100 Coordination with State Agencies and the General Assembly

- a) For the purposes of this Section, a "construction agency" means the Capital Development Board and the Secretary of State.
- b) State Agencies and the General Assembly are invited to address the Board with comments, concerns or suggestions about procurement policy. Written submission will be required for the Board to conduct an official review for the requestor. The Board will review the submission and respond within the timeframe established in Section 500 of this Part.
- c) As required by the Code, the Board will approve or disapprove contracts based on the following for construction and construction related services involving or affecting portions of State buildings within the Capitol Complex that are used or occupied by the legislative branch and determined by the construction agency to be a sole source procurement, small purchase or emergency purchase:
- 1) For sole source procurements, the construction agency shall submit to the Board, in writing, justification for the procurement, including a description of the supply or service along with all associated costs, written verification of the

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED AMENDMENT

means used to determine that there is only one economically feasible source for the supply or service, and a description of the procurement's relationship to the construction project for which it is procured. This description shall include the size of the procurement in relation to the entire project and any positive or negative impact on the related project associated with the procurement.

- 2) For small purchases, the construction agency shall submit to the Board, in writing, justification for the procurement, including a description of the supply or service along with all associated costs, written verification of any quotes sought to determine market price and availability, and a description of the procurement's relationship to the construction project for which it is procured. This description shall include the size of the procurement in relation to the entire project and any positive or negative impact on the related project associated with the procurement.

- 3) For emergency purchases, the construction agency shall submit to the Board, in writing, justification for the procurement, including a description of the supply or service along with all associated costs, written verification of the circumstances requiring emergency procurement, and a description of the procurement's relationship to the construction project for which it is procured. This description shall include the size of the procurement in relation to the entire project and any positive or negative impact on the related project associated with the procurement.

As provided for in the Code, limited emergency procurements can be conducted in situations requiring immediate action prior to Board review. In this event the Board will require a post-procurement submission for review of the procurement.

- d) Upon review of the procurement the Board will issue a written determination of approval or disapproval to the construction agency.

(Source: Amended at 25 Ill. Reg. 14390, effective 01-24-2001)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Respiratory Care Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1456
- 3) Section Numbers: 1456.110
Adopted Action: Amendment
- 4) Statutory Authority: Respiratory Care Practice Act [225 ILCS 106]
- 5) Effective Date of Amendment: October 23, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: July 27, 2001, at 25 Ill. Reg. 9599
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: No substantive differences
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Section 1456.110 is amended to add the American Heart Association as an approved continuing education sponsor, and clarifies that entities not specifically named as approved CE sponsors must make application to the Department. It is also amended to require CE earned in other jurisdictions to be approved prior to the expiration date of the license, consistent with other professions licensed by the Department.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813
Fax: 217/782-7645

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
 CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
 SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1456
 RESPIRATORY CARE PRACTICE ACT

Section

- 1456.05 Application for Licensure as a Respiratory Care Practitioner Under Section 50(b) of the Act (Grandfather) (Repealed)
- 1456.10 Definitions
- 1456.20 Approved Respiratory Care Training Program
- 1456.30 Application for Licensure on the Basis of Examination
- 1456.40 Application for Licensure for Graduates from a Nonapproved Program
- 1456.50 Examination
- 1456.60 Endorsement
- 1456.70 Renewals
- 1456.75 Fees
- 1456.80 Inactive Status
- 1456.90 Restoration
- 1456.100 Unprofessional Conduct
- 1456.110 Continuing Education
- 1456.120 Granting Variances

AUTHORITY: Implementing the Respiratory Care Practice Act [225 ILCS 106] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rule at 21 Ill. Reg. 3730, effective March 11, 1997, for a maximum of 150 days; emergency expired August 7, 1997; adopted at 21 Ill. Reg. 11751, effective August 11, 1997; amended at 22 Ill. Reg. 16508, effective September 3, 1998; amended at 24 Ill. Reg. 606, effective December 31, 1999; amended at 25 Ill. Reg. 14394, effective 01/23/2001.

Section 1456.110 Continuing Education

- a) Continuing Education Hour Requirements
- 1) Every renewal applicant shall complete 24 hours of Continuing Education (CE) relevant to the practice of respiratory care required during each prerenewal period. A prerenewal period is the 24 months preceding October 31 in the year of the renewal.
 - 2) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.
 - 3) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
 - 4) A licensee who serves as an instructor, speaker or discussion

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leader of a CE program will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course and will only be allowed for additional study or research. In no case shall credit for actual time of presentation and preparation be given for more than 12 hours during any renewal period.

- 5) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
- 6) Respiratory Care Practitioners licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- 7) A renewal applicant shall receive 6 continuing education hours for passage of the Advanced Practitioner, Clinical Simulation or any other NBRC examination beyond entry level. CE credit will not be granted for examinations taken more than once.
- b) Approved Continuing Education
 - 1) All continuing education hours must be earned by verified attendance at or participation in a program which is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below.
 - 2) Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.
 - 3) Credit shall not be given for courses taken in Illinois from unapproved sponsors.
- c) Continuing Education Sponsors and Programs
 - 1) Approved sponsor, as used in this Section, shall mean:
 - A) The American Association for Respiratory Care or its affiliates;
 - B) The Illinois Society for Respiratory Care or its affiliates;
 - C) American Medical Association or the Illinois State Medical Society or its affiliates;
 - D) American Hospital Association or Illinois Hospital Association or its affiliates;
 - E) Illinois Nurses Association or the American Nursing Association or its affiliates;
 - F) American Lung Association or its affiliates; or
 - G) The American Heart Association or its affiliates; or
 - H) Any other person, firm, association, corporation, or group that has been approved and authorized by the Department pursuant to subsection (c)(2) of this Section upon the recommendation of the Board to coordinate and present continuing education courses or programs.
- 2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(H) shall file a sponsor application, along with the required fee set forth in Section 1456.75. (State agencies, State

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colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:

- A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c) of this Section and all other criteria in this Section. The applicant shall be required to submit a sample 3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;
 - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certification of attendance as set forth in subsection (c)(8) below; and
 - C) That upon request by the Department, the sponsor will submit such evidence as is necessary to establish compliance with this Section. Such evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) Each sponsor shall submit by October 31 of each odd numbered year a sponsor application along with the renewal fee set forth in Section 1456.75. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered in the prerenewal period, which includes a description, location, date and time the course was offered.
 - 4) Each CE program shall provide a mechanism for written evaluation of the program and instructor by the participants. Such evaluation forms shall be kept for 5 years and shall be made available to the Department upon written request.
 - 5) All courses and programs shall:
 - A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of respiratory care;
 - B) Provide experiences which contain scientific integrity, relevant subject matter and course materials; and
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program.
 - 6) All programs given by approved sponsors shall be open to all licensed respiratory care practitioners and not be limited to the members of a single organization or a group and shall specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.
 - 7) Certificate of Attendance
 - A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:
 - i) The name and address of the sponsor;

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- ii) The name and address of the participant and his/her respiratory care practitioner license number;
 - iii) A detailed statement of the subject matter;
 - iv) The number of hours actually attended in each topic;
 - v) The date of the program;
 - vi) Signature of the sponsor.
- B) The sponsor shall maintain these records for not less than 5 years.
 - 8) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive credit for time not actually spent attending the program.
 - 9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board pursuant to the Administrative Hearing Rules (see 68 Ill. Adm. Code 1110) shall thereafter refuse to accept CE credit for attendance at or participation in any of that sponsor's CE programs until such time as the Department receives reasonably satisfactory assurances of compliance with this Section.
 - d) Continuing Education Earned in Other Jurisdictions
 - 1) If a licensee has earned CE hours in another jurisdiction from a nonapproved sponsor for which he/she will be claiming credit toward full compliance in Illinois, that applicant shall submit an application along with a \$20 processing fee prior to taking the program or within 90 days prior to the expiration date of the license ~~after the renewal date~~. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time, late approval may be obtained by submitting the application with the \$20 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - e) Certification of Compliance with CE Requirements
 - 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a) above.
 - 2) The Department may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

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f) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 75(d) of the Act, a statement setting forth the facts concerning such non-compliance, and a request for waiver of the CE requirements on the basis of such facts. If the Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that good cause has been shown for granting a waiver, the Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.
- 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of such period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness documented by a currently licensed physician,
 - ii) A physical inability to travel to the sites of approved programs, or
 - iii) Any other similar extenuating circumstances.
- 3) If an interview with the Board is requested at the time the request for such waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

(Source: Amended at 25 Ill. Reg. 14394, effective OCT 23 2001)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Assisted Living and Shared Housing Establishment
Code
- 2) Code Citation: 77 Ill. Adm. Code 295
- 3) Section Numbers: Adopted Action:

295.100	New Section
295.200	New Section
295.300	New Section
295.400	New Section
295.500	New Section
295.600	New Section
295.700	New Section
295.800	New Section
295.900	New Section
295.1000	New Section
295.1010	New Section
295.1020	New Section
295.1030	New Section
295.1040	New Section
295.1050	New Section
295.1060	New Section
295.1070	New Section
295.1080	New Section
295.1090	New Section
295.1100	New Section
295.2000	New Section
295.2010	New Section
295.2020	New Section
295.2030	New Section
295.2040	New Section
295.2050	New Section
295.2060	New Section
295.2070	New Section
295.3000	New Section
295.3010	New Section
295.3020	New Section
295.3030	New Section
295.3040	New Section
295.4000	New Section
295.4010	New Section
295.4020	New Section
295.4030	New Section
295.4040	New Section
295.4050	New Section
295.4060	New Section
295.5000	New Section
295.6000	New Section

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295.6010 New Section
 295.6030 New Section
 295.7000 New Section
 295.7010 New Section
 295.8000 New Section
 295.9000 New Section
 295.9005 New Section
 295.9010 New Section
 295.9020 New Section
 295.9030 New Section
 295.9040 New Section
 APPENDIX A
 TABLE A

- 4) Statutory Authority: Assisted Living and Shared Housing Act [210 ILCS 9]
- 5) Effective Date of Rules: December 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: January 6, 2001 - 75 Ill. Reg. 1091
- 10) Has JCARE issued a Statement of Objection to these rules? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. Section 295.900 (Alzheimer's Special Care Disclosure) was renumbered as 295.1100; Sections 295.1000 - 295.1100 were renumbered as 295.900 - 295.1090.
 2. In the definition of "Administrative Warning," "at the level of a Type 3 violation" was added.
 3. "Comprehensive assessment" was changed to "physician's assessment" throughout the rule.
 4. "Evaluation" was changed to "establishment evaluation" throughout the rule.

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5. In the definition of "Financial exploitation", "elderly person" was changed to "resident".
6. A definition of "Intermittent health-related services" was added: "health-related services provided episodically, irregularly, or for a limited time period."
7. The definition of "Manager" was amended to read: "the individual in charge of overseeing and responsible for the day-to-day operation of the establishment."
8. The definition of "Neglect" was amended to read: "a failure by the establishment to provide services as outlined in the service delivery contract; a failure to notify the appropriate health care professional that an assessment is necessary in accordance with the service plan; a failure to modify a service plan, as appropriate, based on a new physician's assessment; or a failure to terminate the residency of an individual whose needs can no longer be met by the establishment, which failure results in an avoidable decline in function."
9. The definition of "Negotiated risk agreement" was amended to read: "a binding agreement, in compliance with Section 295.2070 of this Part, describing conditions or situations that could put the resident at risk of harm or injury, and describing the resident's agreement with the establishment for how those conditions or situations are to be handled."
10. The definition of "Nonmedical services" was amended to read: "optional services such as, but not limited to, transportation; social, recreational, education and religious services; and shopping."
11. A definition of "nurse" was added: "a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]."
12. The definition of "Optional services" was amended to read: "may include but are not limited to medication reminders, supervision of self-administered medication, medication administration and nonmedical services. (Section 70 of the Act)"
13. A definition of "Physician's assessment" was added: "a comprehensive assessment that includes an evaluation of the resident's or prospective resident's physical, cognitive, and psychosocial condition, completed by a physician. (Section 15 of the Act)"
14. A definition of "Risk management" was added: "the process by which an establishment assesses and addresses potential liability."

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15. The definition of "Significant change in the resident's condition" was revised to read: "a change in the resident's condition that is substantial enough to indicate to a reasonable person that current supports and services are insufficient, taking into account to resident's wishes as addressed in any negotiated risk agreements in effect. A significant change is not a temporary change in the individual's health with a predictable course, such as a cold or flu, or the gradual deterioration in the ability to carry out the activities of daily living that accompanies the aging process."

16. The definition of "Violation" was deleted.

17. Section 295.300(a)(1) was amended to incorporate "Chapter 32, New Residential Board and Care Occupancies" of the 2000 edition of the Life Safety Code.

18. Section 295.300(d)(2) was amended to include: "Y) Uniform Conviction Information Act [20 ILCS 2635]"; "Z) Criminal Jurisprudence Act [720 ILCS 115]"; "AA) Wrongs to Children Act [720 ILCS 150]".

19. Section 295.500(a)(3)(A)-(F) was amended to read:

3) *Financial information establishing that the project is financially feasible*, as evidenced by one of the following forms:

- A) A surety bond in an amount equal to at least three months operating expenses;
- B) An independent certified public accountant's report expressing an opinion on the financial status of the establishment;
- C) An audited financial report certifying the financial status of the applicant;
- D) The entity's most recent bond rating (less than 2 years old) from Fitch's Moody's, or Standard and Poor's rating agency that documents an "A" rating or better;
- E) Evidence of operation for at least 2 years of a facility licensed under the Nursing Home Care Act or under the Assisted Living and Shared Housing Act; or
- F) If the applicant is not able to provide any of the information listed in subsections (a)(3)(A)-(E), the applicant may provide any other information acceptable to the Department that demonstrates financial status.

20. Section 295.500(a)(9) was amended to create new subsections as follows:

- 9) *Information about the number and types of units and the maximum census;*
- 10) If all units are not licensed, the establishment shall maintain documentation of which units are providing assisted living services. This number shall not exceed the number of units on

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the license. The entire building having any licensed units shall meet the physical plant requirements of this Part.

11) *Information about the mandatory and optional services to be provided at the establishment;*

12) *Proof of compliance with applicable State and local residential standards;*

13) *A copy of the standard contract offered to residents;*

14) *Documentation of adequate liability insurance; and (Section 30 of the Act).*

21. In Section 295.500(c), last line, "application" was changed to "licensee's file".

22. In Section 295.600(a)(3), "and that the establishment . . . are offered" was deleted.

23. "Alzheimer's special care unit or center" was changed to "Alzheimer's special care program" in Section 295.600(a)(7).

24. In Section 295.800(a), subsections (1) and (2) were deleted; (A)-(D) were renumbered as (1)-(4).

25. In Section 295.800(d), "for a second probationary license" was added after "once".

26. In Section 295.1020 (formerly 1030) (a)(2), "and cooling" was added after "heating".

27. In Section 295.1020(a)(3), "medical" was added before "emergency"; the period was changed to "; and"; a new subsection (4) was added: "4) Whether the establishment provides therapeutic diets."

28. In Section 295.1020(d) "provide" was changed to "make available for review"; "plan" was changed to "statement".

29. A new subsection (e) was added in Section 295.1020: "e) The establishment shall make available for review any waiver or variance currently in effect."

30. In Section 295.1040 (formerly 1050), the following was added in subsection (a): "A technical infraction may include a Type 3 violation that is identified and corrected during the on-site survey review process."

31. In Section 295.1040, ", but . . . imposed" was deleted; the following was added: "If the establishment has taken steps to correct the technical infraction, no fine, violation, or sanction shall be

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imposed."

32. Section 295.1040(c) was amended to state: "Repeat of the same technical infraction during subsequent on-site surveys may result in a Type 3 violation."
33. In Section 295.1050 (formerly 1060), subsection (a)(1) was deleted; the second sentence in subsection (a)(2) was amended to read: "A violation may only be based upon the licensee's improper conduct or the conduct of the licensee's staff."
34. In Section 295.1050(a)(2)(A), "Minor" was changed to "Type 3"; "failure to act on the part of" was changed to "omission by".
35. In Section 295.1050(a)(2)(B), "Serious" was changed to "Type 2"; "failure to act, except by accidental means," was changed to "omission by the establishment or its staff."
36. In Section 295.1050(a)(2)(C), "Egregious" was changed to "Type 1".
37. In Section 295.1050, subsections (b) and (c) were deleted.
38. In Section 295.1060 (formerly 1070), "shall" was changed to "may" in subsection (a).
39. In Section 295.1060(a)(1) "vis't" was changed to "conference"; "This may be part of the on-site review, via teleconference, or other means of communication." was added after "violations"; "if the establishment does not come into compliance" was added after "sanction".
40. In Section 295.1060(a)(2), "Plan of correction or" was deleted; "statement of corrections" was changed to "Statement of correction"; the following was added: "A statement of correction must be submitted by the licensee within 15 days after the notification to the establishment of the infraction or violation. A statement of correction must be in writing and must contain:
- A) A description of the specific corrective action the establishment is taking;
 - B) A description of the steps that will be taken to avoid future occurrences; and
 - C) A specific date by which the correction shall be completed."
41. In Section 295.1060(a)(3), "Type 3" was added after "any".
42. In Section 295.1060(a)(5), "plan" was changed to "order"; "submit or" was added after "fails to"; "corrective plan" was changed to "statement of correction" "in an egregious situation" was changed to "for a Type 1 violation".

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43. In Section 295.1060(a)(6), "Fine" was changed to "Fines"; "may . . . violations" was deleted; a new subsection (A) was added: "A) The Department may impose a fine of up to \$500 for an initial Type 2 violation; "A)" was changed to "B)"; "similar serious" was changed to "repeat Type 2"; a new subsection (C) was added: "C) The Department may impose a fine of up to \$2000 for Type 1 violations."; "B)" was changed to "D)"; in subsection [new] (D), "\$5,000" was changed to "\$10,000"; "similar egregious" was changed to "repeat Type 1".
44. In Section 295.1060(a)(7), "all" was deleted; the following was added: "The decision to revoke a license may only be made by the Director of the Department."
45. In Section 295.1060(b), "Violations" was deleted; "remedies" was changed to "Remedies".
46. In Section 295.1060, subsections (c) and (d) were deleted.
47. In Section 295.1060 [new] (c), "June" was changed to "November"; "fined . . . continues" was changed to "assessed a civil penalty not to exceed '\$3,000'".
48. In Section 295.1060 [new] (e), "in an emergency . . . proceedings or" was changed to "if a sudden change in a resident's condition, making the resident ineligible for residency, has occurred within the last 72 hours, the establishment".
49. In Section 295.1060 [new] (e), the following was added after "setting": ", and the establishment has initiated involuntary termination of residency proceedings".
50. In Section 295.1060 [new] (f), "the first" was changed to "each"; "and \$500 . . . period" was deleted.
51. In Section 295.1070, subsection "(a)" was changed to "(b)" and "(b)" was changed to "(a)".
52. In Section 295.1070, a new subsection (c)(10) was added: "10) Incident and accident reports that are required to be submitted to the Department."
53. In Section 295.1070(e) and (f), "potential violation" was changed to "technical infraction"; "consultative discussion" was changed to "consultative conference".
54. In Section 295.1070(g) "within no more than 15 days" was changed to "no later than 20 days".

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55. In Section 295.1070, a new subsection (j) was added: "j) Whenever there is a revisit for a Type 1 violation or a pervasive pattern of Type 2 violations, the Department shall conduct the on-site revisit within 30 days after the Department's receipt of the statement of correction or within 30 days after the corrective action is completed to confirm that the establishment has carried out the corrective action. Nothing prohibits the Department from conducting a revisit at any time."
56. In Section 295.1080(a), "at the time of the on-site review" was deleted.
57. In Section 295.1080(f)(4), "without substantial increase in cost" was deleted.
58. In Section 295.1080, a new subsection (g) was added: "g) The Department may limit the time period that a waiver is in effect."
59. In Section 295.1090, the following was added in subsection (d): "so that the identity of the complainant or resident involved is not disclosed".
60. In Section 295.1100 [formerly 900], "unit or center" was changed to "program"; "potential or actual client" was changed to "a resident or potential resident".
61. In Section 295.1100(d), the following was added: ", including whether individuals are or are not monitored about eating, drinking, and personal hygiene; whether individuals will be monitored for potentially dangerous behavior while in their rooms; and whether a resident representative will be contacted with concerns that might require a change in the service plan".
62. In Section 295.1100(e), "staffing ratio during the day, during the evening and during the night" was added; "client" was changed to "resident".
63. In Section 295.1100(f), ", including whether or not doors are monitored" was added.
64. In Section 295.2000(c)(2), "verbally or through nonverbal means" was deleted; "in any manner" was added after "needs".
65. In Section 295.2000(c)(5) the following was added: ". For the purpose of this Section, minimal assistance means that the resident is able to respond, with or without assistance, in an emergency to protect himself/herself, given the staffing and construction of the building".

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66. In Section 295.1000(c)(6), the following was added: ". Nothing in this Section is meant to prohibit an individual with a diagnosis of depression from living in an establishment so long as the resident is not substantially disabled in the areas of self-maintenance, social functioning, activities of community living, and work skills".
67. In Section 295.2010, the following was added:
"a) Voluntary termination of residency
1) A resident or resident's representative may terminate residency immediately after notice to the establishment due to any of the following: neglect, abuse, financial exploitation or imminent danger to life, health, or safety that is caused by the establishment.
2) Upon a resident's death and removal of the resident's property from the unit, the lease agreement shall terminate.
3) A resident or resident's representative may terminate residency by providing 30 days' written notice to the licensee.
b) Involuntary termination of residency".
68. Subsections were relabeled in Section 295.2010.
69. In Section 295.2010(b)(2), "involuntary" was added after "notice of".
70. In Section 295.2010(b)(3)(A) and (B), "proposed transfer or" was deleted; in subsection (b)(3)(B), "effective" was changed to "proposed".
71. In Section 295.2010(b)(3)(H), "charged . . . termination" was deleted; "at the establishment offering relocation assistance pursuant to subsection (1)" was added after "person".
72. In Section 295.2010(b)(5), "as defined in Section 295.200 of this Part" was added after "situations"; "An establishment . . . of the Act)" was deleted.
73. In Section 295.2030(a)(11), "and the Long-Term Care Ombudsman Program" was added after "Helpline"; "assistance with" was added after "for"; "complaints" was changed to "complaint resolution".
74. In Section 295.2030(a)(17), "risk management" was deleted.
75. In Section 295.2030(a), a new subsection (18) was added: "(18) A statement indicating that the establishment maintains a risk management process;".
76. In Section 295.2030(b)(5), "a third party" was changed to "a relative or other individual in an emergency, significant change in the

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resident's condition, or termination of residency".

77. In Section 295.2030(d) "A service delivery" was changed to "An establishment".

78. In Section 295.2030(e), "Service delivery" was changed to "Establishment".

79. In Section 295.2040, subsection (b)(1) was deleted and replaced with the following: Have a written plan for protection of all persons in the event of disasters, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary. The plan shall address the physical and cognitive needs of residents and include special staff response, including the procedures needed to ensure the safety of any resident. The plan shall be amended or revised whenever any resident with unusual needs is admitted. The plan shall also:

- A) provide for the temporary relocation of residents for any disaster requiring relocation;
- B) provide for the movement of residents to safe locations within the establishment in the event of a tornado warning or severe thunder storm warning issued by the National Weather Service;
- C) provide for the temporary relocation of residents any time the temperature in residents' bedrooms falls below 55°F for 12 hours or more as a result of a mechanical problem or loss of power in the establishment.
- D) provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature (see Section 295.2040(a)), as established by the National Oceanic and Atmospheric Administration, inside the resident's living, dining, activities, or sleeping areas of the establishment exceeds a heat index/apparent temperature of 80°F;
- E) address power outages; and
- F) include contingencies in the event of flood, if located on a flood plain."

80. In Section 295.2040(b), subsections (5), (6), and (7) were deleted.

81. In Section 295.2040(c), "fire" was deleted; "on a bimonthly basis" was added after "year"; "Two" was changed to "At least two"; "conducted" was added after "be"; "third shift" was changed to "night when residents are sleeping"; "Drills" was changed to "All drills".

82. In Section 295.2040(d), "an employee" was changed to "a"; "within . . . 1" was changed to "during February"; for employees" was added after "year".

83. In Section 295.2040(e), "Resident disaster drills" was changed to

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"Drills"; "be held . . . and shall" was deleted.

84. In Section 295.2040(f), "A disaster drill" was changed to "Drills"; "resident emergency" was deleted; "Drills may be announced in advance to residents." was added.

85. Section 295.2040(g) was deleted and replaced with the following: "Drills shall involve the actual evacuation of residents to an assembly point as specified in the emergency plan and shall provide residents with experience using various means of escape. If an establishment has an evacuation capability classification of impractical, those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to participate in the drill; however, other requirements of the Life Safety Code will apply."

86. In Section 295.2040(h), "signatures" was changed to "names"; "any" was added after "of"; "needing" was changed to "who received".

87. Section 295.2040(j) was deleted.

88. In Section 295.2050(a), "any" was changed to "an"; the text of subsection (b) was inserted after "welfare", with the following added after "necessary": "as a result of that incident or accident, treatment is provided, and follow-up care is required"; "c)" was added before "A copy of the report"; the following was added after "establishment": "for one year after the date of the incident or accident".

89. In Section 295.2060, a new subsection (b) was added:

- "b) A system shall be in place to facilitate the detection of issues and problems, to expedite the implementation of action, and to resolve problems.
 - 1) Data analysis shall be used to identify and implement changes that will improve performance or reduce the risk of additional events.
 - 2) The establishment shall maintain documentation that shows that data analysis has occurred and that actions, as appropriate, have been implemented to address identified issues and to resolve problems, as well as any follow-up actions taken by the establishment.

90. In Section 295.2060, "b)" was changed to "c)"; a comma was added after "existence"; "and" was deleted; ", and process" was added after "results".

91. In Section 295.2060, a new subsection (d) was added: "d) The results of the quality improvement program cannot be the sole basis for citing

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a violation."

92. In Section 295.2070(a)(2), "potential" was deleted.

93. In Section 295.2070(b), "be part" was changed to "initiate a reevaluation".

94. In Section 295.2070, new (c), (d), and (e) were added:

"c) A negotiated risk agreement shall be limited to a resident's individual care and personal environment.

d) A negotiated risk agreement shall not create a risk to the health, safety, or welfare of other residents and shall not infringe upon the rights of other residents.

e) A negotiated risk agreement shall not waive the requirements of this Part."

95. In Section 295.3000(d), "The establishment shall define, through job" was deleted; "Job" was added; the comma was deleted; "shall define the" was added after "descriptions"; "for staff" was added after "requirements".

96. In Section 295.3000(f)(1), ", if applicable" was added after "CPR".

97. In Section 295.3000(h)(4), "(if provided directly by the establishment)" was added after "services".

98. In Section 295.3000(i)(3), "from" was changed to "after".

99. In Section 295.3000(j), "a place" was changed to "an area".

100. In Section 295.3000(k), "delivery" was added after "service" in the second sentence. The subsection (l) label was added after the second sentence.

101. Section 295.3000(l) was changed to "m"; the following was added after "hiring.": "The establishment is prohibited from hiring any individual who has a finding of abuse, neglect, or misappropriation of property on the Nurse Aide Registry."

102. In Section 295.30309(c), "a health inventory . . . include" was deleted; all text after "immunization status" was deleted.

103. In Section 295.3030(d), "at . . . to:" was deleted; subsection (d)(1) was deleted; "2) Determine" was changed to "a determination"; "physically" was deleted.

104. In Section 295.4000, the Section heading was changed to "Physician's Assessment".

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105. In Section 295.4000(a) "by . . . include" was deleted; "that includes" was added; "shall be completed by a physician." was added after "condition"; ", including" was deleted; "The physician's assessment shall include" was added before "documentation"; a new sentence was added: "At the time of admission, the physician's assessment must reflect the resident's current condition."

106. In Section 295.4000(b), ". The . . . completed" was deleted.

107. In Section 295.4000(c), "comprehensive" was changed to "physician's".

108. In Section 295.4000(d), "reviewed" was changed to "renegotiated as necessary".

109. In Section 295.4000(e), "by a physician" was deleted; "or" was changed to "and".

110. In Section 295.4000(f) "physician's" was added after "have".

111. In Section 295.4000(g), a comma was added after "accurate"; "and" was changed to "that"; "conditions" was changed to "condition"; ", and" that incorporates the physician's assessment" was added after "condition".

112. In Section 295.4000(h), "appropriate . . . condition" was deleted; "a relative or other individual in an emergency situation, significant change in resident's condition, or termination of residency" was added.

113. In Section 295.4010(a), "physician's" was added before "assessment" and "establishment" was added before "evaluation".

114. In Section 295.4010(b)(1), ", resident's representative," was added after "resident".

115. In Section 295.4010(b)(3), "registered" was added before "nurse".

116. In Section 295.4010(f), "physician's" was added before "Assessment"; "kitchen" was added after "any".

117. In Section 295.4010(g)(1)(B), a comma was added after "needs"; "the establishment provides therapeutic diets" was added after "if"; "any" was deleted; "and" was added after ";".

118. In Section 295.4010(g)(1), subsection (C) was deleted and "D)" was changed to "C)".

119. In Section 295.4010(g)(3), "Each individual" was changed to "Staff";

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"and" was deleted.

120. In Section 295.4010(g), a new subsection (5) was added: "5) Whether the resident requires medication reminders, supervision of self-administered medication, or medication administration."

121. In Section 295.4010, subsection (h) was deleted; (i) and (j) were changed to "(h)" and "(i)".

122. In Section 295.4010(i), "to choose" was deleted; the following was added before "Residents": "Nothing in this part limits a resident's ability to direct his or her own care and negotiate the terms of his or her own care."; "physician's" was added before "assessment".

123. In Section 295.4030, "The" was changed to "If the"; "shall . . . of" was deleted; "accepts" was added; the following was added after "schlerosis": ", the establishment shall provide for the special safety and services needs of those individuals"; "A resident . . . Act)" was deleted; "For the . . . wheelchair." was deleted.

124. In Section 295.4060(c), "The Department shall develop . . ." was deleted.

125. In Section 295.4060, a new subsection (d) was added:

"d) Individual residents shall be assessed prior to admission to the establishment using any one or a combination of the following assessment tools, based on the resident's condition and stage in the disease process:

- 1) Functional
 - A) Functional Activities Questionnaire (FAQ)
 - B) Physical Self-Maintenance Scale (PSMS); Activities of Daily Living
 - C) Instrumental Activities of Daily Living (IADL)
 - D) Clock Drawing Task (CDT)
 - E) Progressive Deterioration Scale (PDS)
 - F) Functional Assessment Staging (FAST)
- 2) Cognitive
 - A) Allen Cognitive Disabilities Theory
 - B) Alzheimer's Disease Assessment Scale, Cognitive Subsection (ADAS-Cog)
 - C) Blessed Information-Memory Concentration Test (BIMC)
 - D) Short Test of Mental State (STMS)
 - E) Clinical Dementia Rating Scale (CDR)
 - F) Mini-Mental State Examination (MMSE)
- 3) Global
 - A) Clinical Global Impression of Change (CGIC)
 - B) Clinical Interview-Based Impression (CIBI)
 - C) Global Deterioration Scale (CDS)

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D) Brief Cognitive Rating Scale (BCRS) (to use with Global Deterioration Scale)"

126. In Section 295.4060, subsections (d)-(h) were changed to (e)-(i).

127. In Section 295.4060(g), "an" was changed to "any" and "individual" was changed to "individuals"; "him or her" was changed to "them"; "one" was changed to "sufficient"; "member" was changed to "members".

128. Section 295.4060(h)(6) was rewritten as follows: "6) Provide an appropriate number of staff for its resident population. The establishment shall provide staff sufficient in number with qualifications, adequate skills, education, and experience to meet the 24-hour scheduled and unscheduled needs of the residents and who participate in ongoing training, to serve the resident population. At a minimum, at least one staff member shall be awake and on duty at all times;"

129. In Section 295.4060(h), a new subsection (7) was added: "7) At a minimum, provide 1.4 hours of services per resident per day. For purposes of this Section, services shall mean assistance with activities of daily living, activities-based programming, and services delivered to the resident to meet the unique needs of residents with dementia;"

130. In Section 295.4060(h), subsections (7)-(10) were renumbered as (8)-(11).

131. In Section 295.4060(i), "or unit" was deleted.

132. In Section 295.4060(i)(1)(A), "unit" was changed to "program".

133. In Section 295.4060(i)(1)(A)(i) and (ii), "working" was added after "experience"; in subsection (ii), "management" was deleted.

134. In Section 295.4060(i)(1)(B), "subsection (i)(2) of this Section and in" was added after "in".

135. Section 295.5000(h) was amended to state: "Any medication stored by the establishment shall meet the following requirements:"; in subsection (5), "all" was changed to "any".

136. In Section 295.5000(i), "4 weeks was changed to "one month".

137. In Section 295.5000(j)(4), "assistance in self-administration of medication or" was deleted.

138. Section 295.5000(j)(5) was amended to state: "Signature or initials

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of the employee administering medication."

139. In Section 295.6000(a), new subsections (1), (2), (4), (5), (6), (8), (9), and (10) were added:
"1) The right to live in an environment that promotes and supports each resident's dignity, individuality, independence, self-determination, privacy, and choice to be treated with consideration and respect;
2) *The right to respect for bodily privacy and dignity at all times, especially during care and treatment;*" . . .
"4) The right to designate any individual to participate with the resident or in the resident's name in the development of the written service plan;
5) The right to receive the services specified in the services plan, to review and renegotiate the service plan at any time; and to be informed of the cost of the changes;
6) The right to direct his or her own care and negotiate the terms of his or her own care;" . . .
"8) The right to exercise free choice in selected activities, schedules, and daily routines;
9) The right to exercise free choice in selecting a primary care provider, pharmacy, home health provider, or other service provider and to assume responsibility for any additional costs incurred as a result of such choices. However, an establishment may specify how medications are packaged by a pharmacy if the resident receives administration of medication.
10) The right to request to relocate or refuse to relocate within the facility based upon the resident's needs, desires, and availability of such options."
140. In Section 295.6000(a) [new] (3) the following was added after "property": ", unless such use infringes on the health, safety, or welfare of other individuals,"; [old] (3) was deleted.
141. In Section 295.6000(a), [old] subsections (5), (6), and (7) were deleted.
142. In Section 295.6000(a) [new] (14), ", financial, or other" was added after "medical"; the following was added after "records," "The release of a record shall be by written consent of the resident or the resident's representative and shall specify the circumstances under which each individual record may be released, except as specified by law."
143. In Section 295.6000(a), new subsections (17), (18), and (19) were added:
"17) *The right to privacy with regard to mail, phone calls, and visitors;*

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- 18) *The right to uncensored access to the State Ombudsman or his or her designee, and the right to refuse access to a State Ombudsman or Department reviewer;*
- 19) *The right to be free of retaliation for or constraint from criticizing the establishment or making complaints to appropriate agencies or any agency or individual;*"
144. In Section 295.6000(a), a new subsection (15) was added: "15) The right to privacy in financial and personal affairs;"
145. In Section 295.6000(a) [new] (16), "review and" was added before "copy".
146. In Section 295.6000(a) [new] (20), "and all common areas of the establishment" was added after "establishment".
147. In Section 295.6000(a) a new subsection (21) was added: "21) The right to a minimum of 30-day notice of any changes in a fee or charge or the availability of a service;"
148. In Section 295.6000, subsection (b) was deleted; (c) was changed to (b).
149. In Section 295.6010, "there is reasonable cause to believe" was changed to "the establishment has a reasonable belief".
150. In Section 295.6010(a)(1), "The establishment shall" was added.
151. In Section 295.6010(a)(2), "2)" was deleted, "Document the initial" was changed to "document this"; "of the report" was deleted.
152. In Section 295.6010(b)(1), "suspected or" was deleted.
153. In Section 295.6010(b)(3), "Any" was changed to "Description of any".
154. In Section 295.6010(b)(5), "interviewed or" was added after "agencies".
155. In Section 295.6010(b)(6), "suspected or" was deleted.
156. In Section 295.6010(b)(7), the following was added: "If the abuse, neglect, or financial exploitation is substantial, a"; "to be" was added after "action"; "suspected or alleged" was deleted.
157. In Section 295.6010(c), the following was added after "resident": "to the establishment management and to the Department".
158. In Section 295.6010, a new subsection (d) was added: "d) When the

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establishment has a reasonable belief that abuse, neglect, or financial exploitation occurred, the perpetrator, if any employee or volunteer, shall be removed from direct contact with residents".

159. Section 295.6020 was deleted.

160. In Section 295.6030, a new subsection (a) was added: a) *Designation of a resident's representative may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.* (Section 10 of the Act)"

161. Section 295.6030 [old] (a) was changed to (d) and rewritten as follows: "d) If a resident is not able to communicate his or her own needs in any manner, the resident's representative must reside in the establishment and have a prior relationship to the resident. (Section 75(c)(2) of the Act)"

162. Section 295.6030(b) was deleted; (c) was changed to (b) and the following was added after "Section": "a legally appointed guardian, an agent designated by the resident pursuant to the Powers of Attorney for Health Care Law, or a surrogate decision maker appointed in accordance with the Health Care Surrogate Act".

163. In Section 295.6030, a new su' section (c) was added:

"c) The designation of a representative pursuant to the Department's form shall meet the following conditions:

- 1) The designation shall be in writing and be signed by the resident;
- 2) Documentation of the designation shall be provided to the establishment; and
- 3) The resident must be competent at the time of the designation."

164. In Section 295.7000(b)(4), "residency agreement" was changed to "establishment contract".

165. In Section 295.7000(b)(9), "Documentation" was changed to "Notation".

166. In Section 295.7000(b)(13), "any" was changed to "applicable".

167. In Section 295.7000(b), subsection (15) was amended to read: "If applicable, letters of guardianship, the resident's representative designation form, or durable power of attorney for health care; and;" "16)" was deleted; a new subsection (16) was added: "Orders from a licensed health care provider for medication that is to be administered by the establishment."

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168. In Section 295.7000(c), ", resident's representative, resident's guardian, or health care power of attorney" was added after "resident"; "of which the resident is aware" was deleted.

169. Section 295.7000(f)(3) was amended to read: "Incident and accident reports that are required to be submitted to the Department. (Section 105 of the Act)"

170. In Section 295.7010, a new subsection (e) was added: "e) Quality improvement program."

171. In Section 295.8000, "a)" was added before the introductory statement, which was amended to read: "If food service is provided by the establishment or by contract with a food service provider, the following requirements shall be met:".

172. Section 295.8000 [old] (a) was deleted; (b) was changed to (7); (c) was changed to (2); (d) was changed to (1); (e) was changed to (3); (f) was changed to (4); (g) was changed to (5); (h) was changed to (6); (i) was changed to (b).

173. In Section 295.8000 [new] (a)(2), "or contract for" was added after "provide".

174. In Section 295.8000 [new] (a)(2), the following was added after the last sentence: "Special dietary services may be considered an additional service requiring an additional fee."

175. In Section 295.8000[new] (a)(4), "posted" was changed to "made available".

176. In Section 295.8000[new] (a)(5) "according to establishment policy" was added after "rooms".

177. In Section 295.9000(a), "residential board and care occupancies chapter of the" was added before "National".

178. In Section 295.9000(a) "(Life Safety Code" was added before "101"; "Chapter 22 Residential Board and Care Occupancies" was changed to "Chapter 32, New Residential Board and Care Occupancies)."; "b) The establishment shall comply with" was added before "local"; after "type" the following was added: "and local ordinances, fire codes, and zoning requirements. In the case of a conflict between a local requirement and this Part, the more stringent requirement shall apply. The establishment may petition the Department for a determination as to which requirement is applicable. The Department shall respond within 30 days after receipt of the petition. c) The establishment shall comply with the".

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179. In Section 295.9000(a), "(ADA Accessibility Guidelines)" was added after "Act".

180. Section 295.9000(b) was changed to (d) and rewritten to read: "If the establishment is subject to the requirements of the Illinois Accessibility Code (71 Ill. Adm. Code 400), it shall be deemed residential or multi-story housing for determining the requirements under that Code."

181. Section 295.9000(c) was deleted.

182. Section 295.9000(d) was changed to (e); (e) was changed to (f); (f) was changed to (g).

183. Section 295.9000 [new] (g), the following was added after the first sentence: "Waivers will not be granted for compliance with the Life Safety Code; however, the Department will recognize equivalencies."

184. Section 295.9000(g) was deleted.

185. Section 295.9000(h) was amended to state: "A resident unit shall not be used as access to a common room, common bathroom, or another bedroom or unit."

186. In Section 295.9000, subsections (i), (j) and (k) were deleted; (l), (m), (n), and (o) were changed to (i), (j), (k), and (l).

187. In Section 295.9000 [new] (k), the following was added after "situations": "Common areas shall be lighted to assure the safety of residents."

188. Section 295.9000 [new] (l) was rewritten to state: "A telephone shall be located in an area easily accessible to residents that allows for private conversations."

189. In Section 295.9010(a)(1), "flushable" was deleted.

190. A new Section 295.9000(m) was added: "m) The establishment shall maintain a means of unlocking all doors, which may be used in emergency situations or as provided in the establishment contract."

191. A new Section 295.9005 was added: "Section 295.9005 Units

a) Each unit in the establishment shall include, at a minimum, the following:

- 1) A lockable door. The key to the unit is to be kept by the resident. The establishment shall keep a key to all lockable doors, to be used only in the case of an emergency situation. The door lock shall be capable of being disabled

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if required by the resident's services plan.

- 2) A telephone jack;
- 3) An emergency communication response system in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or other able to respond to his or her need for assistance. (Section 10 of the Act)
- b) To provide natural light and to provide safe egress in an emergency situation, a unit shall have:
 - 1) A window to the outside; or
 - 2) A door made of glass to the outside."

192. In Section 295.9010(a)(1), "flushable" was deleted.

193. In Section 295.9010(a)(2), "and . . . preparation" was deleted.

194. Section 295.9010(a)(3) was deleted; (4) was changed to (3); (5) was changed to (4); (6) was deleted; (7) was changed to (5) and amended to state: "Assistive devices such as grab bars, if identified in a resident's service plan, to provide for resident safety"; subsection (b) was deleted; new subsections (b) and (c) were added:

"b) Bathing facilities, whether provided in the unit or in a common room that is readily accessible to residents, shall meet the following requirements:

- 1) All showers and bath tubs shall have slip-resistant surfaces;
 - 2) Assistive devices shall be provided if indicated by the resident's service plan;
 - 3) All tube enclosures and showers shall be of nonporous surfaces;
 - 4) Shared bathing rooms shall be lockable from the inside; and
 - 5) If more than one shower or bath tub is provided in a common bathing room, privacy curtains shall be provided.
- c) Each unit shall accommodate small kitchen appliances. (Section 10 of the Act)"

195. In Section 295.9020, subsection (a) was deleted; in [old] (b), "operational" was added after "one" and "and one sink" was added after "toilet"; "b)" was deleted; (1)-(4) were changed to (a)-(d); subsection (c) was deleted; in [new] (d), "to . . . safety" was moved to follow "devices".

196. Section 295.9030 was rewritten as follows: "Furnishings, if provided by the establishment, shall include, at a minimum:

- a) A bed that is clean and in good repair;
- b) Adequate general and task lighting;
- c) Adjustable window covers that provide resident privacy; and
- d) A dresser or other storage space for clothing and personal effects."

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197. In Section 295.9040(d), "Establishment" was added; "Garbage" was changed to "garbage".

198. In Section 295.9040(g), "either" was added before "cloth".

199. In Section 295.9040, subsection (1) was rewritten as follows: "Combustible or flammable liquids and hazardous materials shall be stored in the original labeled containers or safety containers inaccessible to residents and in accordance with State law."

200. In Section 295.9040(m), "to be in the units" was deleted; subsection (2) was reworded: "Licensed and vaccinated consistent with local ordinances."; subsection (3) was deleted.

201. In Section 295.9040(n), "containing . . . employees" was changed to "shall be available"; "shall" was added after "supplies".

202. In Section 295.9040, new (o) and (p) were added:

"(o) Medical waste disposal:

1) Medical waste that is under the establishment's control shall be properly disposed of in compliance with State law.

2) Disposal of medical waste that is under a resident's control shall be addressed in the service plan.

p) The establishment shall notify the residents at least 24 hours before pesticide application to the establishment or the establishment grounds. The notice shall advise the resident of the name (either the common name, i.e., insect killer, or actual name) of the pesticide, method of application (i.e., spray, dust, etc.), and the date of application. The establishment may choose to meet this requirement by advising residents of the date of pending pesticide applications and who to contact for more complete information."

203. In Appendix A, the heading was changed to "Physician's Assessment Form". The form was reformatted to make it easier for physicians and establishments to use and to make it less invasive of resident privacy.

204. Appendix B was deleted.

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Table of Contents, "Comprehensive" was changed to "Physician's".

2. In Section 295.300(d)(1), "(Public Law 101-336)" was changed to "(42 USC 12101 et seq.)".

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3. In Section 295.1070(c), a subsection label "c)" was added and "compliance" was capitalized; subsection labels "3)"-"10)" were changed to "4)"-"11)".

4. In Section 295.1060(c), "November" was changed to "December".

5. In Section 295.1100(f) "or not" was deleted.

6. In Section 295.2000(c)(13), "exfoliate" was changed to "exfoliative".

7. In Section 295.2010(a)(3), "license" was changed to "licensee".

8. In Section 295.2040(b)(1)(D) "they eat" was changed to "the heat".

9. In Section 295.3030(c), "the" was added after "include".

10. In Section 295.4060(i)(2)(B)(iv), "person" was changed to "persons".

11. In Section 295.6000(a)(1), "and" was added after "choice".

12. In Section 295.6010(a), "there is" was deleted.

13. In Section 295.6010(a)(1), "such" was changed to "the".

14. In Section 295.6010(b)(7), "a" was added after "substantial".

15. In Section 295.7010(d), "and" was added after the semi-colon.

16. In Section 295.9005(a)(2), "services" was changed to "service".

17. In Section 295.9005(a)(3), "need" was changed to "need".

18. Section 295.9020(c) was deleted.

19. In Section 295.9030, "2)" was deleted, the comma after "provided" was deleted, and a comma was added after "establishment".

20. In Section 295.9040(k), "of" was changed to "or".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these rules replace emergency rules currently in effect? No

14) Are there any other amendments pending on this Part? No

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- 15) Summary and purpose of the Rules: These rules implement the Assisted Living and Shared Housing Act, effective January 1, 2001. The Act defines "assisted living" and "shared housing" and requires the Department to establish licensing procedures and minimum standards for assisted living and shared housing establishments, including location and construction standards. The Department is also authorized to prescribe requirements for personnel; sanitary conditions; maintenance; accommodations, staff and services; evacuation and safety procedures; and financial resources.
- Subpart A of the rules includes general provisions such as definitions; licensing requirements; denial of a license; transfer of ownership; revocation, suspension, or refusal to renew a license; violations; annual on-site review and complaint investigation procedures; waivers; and compliance with the Alzheimer's Special Care Disclosure Act.

Policies for residency requirements, termination of residency; closure of the establishment; establishment contracts; disaster preparedness; incident and accident reporting; the quality improvement program; and negotiated risk agreements are addressed in Subpart B.

Personnel provisions such as qualifications, training, health evaluations, and health care worker background checks are set forth in Subpart C.

Subpart D establishes requirements for resident care and services, including assessment; service plans; mandatory services; communicable disease policies, tuberculin skin test procedures; Alzheimer and dementia programs; and special safety and service needs of individuals who are quadriplegic, paraplegic, or who have neuro-muscular diseases.

Subpart E establishes requirements for medication reminders; supervision of self-administration of medication; medication administration; and storage of medication.

Requirements for residents' rights are set forth in Subpart F.

Requirements for record keeping are set forth in Subpart G.

Subpart H includes requirements for the food service, if a food service is provided.

Subpart I sets forth requirements for the physical plant and environment.

Also included in the rules are a physician's assessment form and a heat index table.

- 16) Information and questions regarding these adopted rules shall be directed to:

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Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
(rules@idph.state.il.us).

The full text of the adopted rules begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 295
ASSISTED LIVING AND SHARED HOUSING ESTABLISHMENT CODE

SUBPART A: GENERAL PROVISIONS

Section	
295.100	Purpose of the Act and this Part
295.200	Definitions
295.300	Incorporated and Referenced Materials
295.400	License Requirement
295.500	Application for License
295.600	Issuance of an Initial Regular License
295.700	Issuance of a Renewal License
295.800	Probationary License
295.900	Denial of a License
295.1000	Revocation, Suspension, or Refusal to Renew a License
295.1010	Transfer of Ownership
295.1020	Information to Be Made Available to the Resident by the Licensee
295.1030	Information to Be Made Available to the Public by the Department
295.1040	Technical Infractions
295.1050	Violations
295.1060	Remedies and Sanctions
295.1070	Annual On-Site Review and Complaint Investigation Procedures
295.1080	Waivers
295.1090	Complaints
295.1100	Alzheimer's Special Care Disclosure

SUBPART B: POLICIES

Section	
295.2000	Residency Requirements
295.2010	Termination of Residency
295.2020	Notice of Closure
295.2030	Establishment Contracts
295.2040	Disaster Preparedness
295.2050	Incident and Accident Reporting
295.2060	Quality Improvement Program
295.2070	Negotiated Risk Agreement

SUBPART C: PERSONNEL

Section	
295.3000	Personnel Requirements, Qualifications and Training
295.3010	Manager's Qualifications

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295.3020	Employee Orientation and Ongoing Training
295.3030	Initial Health Evaluation for Direct Care and Food Service Employees
295.3040	Health Care Worker Background Check

SUBPART D: RESIDENT CARE AND SERVICES

Section	
295.4000	Physician's Assessment
295.4010	Service Plan
295.4020	Mandatory Services
295.4030	Special Safety and Service Needs of Individuals Who Are Quadriplegic or Paraplegic, or Who Have Neuro-Muscular Diseases
295.4040	Communicable Disease Policies
295.4050	Tuberculin Skin Test Procedures
295.4060	Alzheimer's and Dementia Programs

SUBPART E: MEDICATIONS

Section	
295.5000	Medication Reminders, Supervision of Self-Medication, Medication Administration and Storage

SUBPART F: RESIDENT RIGHTS

Section	
295.6000	Resident Rights
295.6010	Abuse, Neglect, and Financial Exploitation Prevention and Reporting
295.6030	Resident's Representative

SUBPART G: RESIDENT AND ESTABLISHMENT RECORDS

Section	
295.7000	Resident Records
295.7010	Establishment Records

SUBPART H: FOOD SERVICE

Section	
295.8000	Food Service

SUBPART I: PHYSICAL PLANT AND ENVIRONMENTAL REQUIREMENTS

Section	
295.9000	Physical Plant
295.9005	Units
295.9010	Supplemental Physical Plant Requirements for Assisted Living Establishments
295.9020	Supplemental Physical Plant Requirements for Shared Housing

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Establishments

295.9030 Furnishings

295.9040 Environmental Requirements

APPENDIX A Physician's Assessment Form

TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Assisted Living and Shared Housing Act [210 ILCS 9].

SOURCE: Adopted at 25 Ill. Reg. 14401.2, effective

SUBPART A: GENERAL PROVISIONS

Section 295.100 Purpose of the Act and this Part

a) The purpose of the Act is to permit the development and availability of assisted living establishments and shared housing establishments based on a social model that promotes the dignity, individuality, privacy, independence, autonomy, and decision-making ability and the right to negotiated risk of those persons; to provide for the health, safety, and welfare of those residents residing in assisted living and shared housing establishments in this State; to promote continuous quality improvement in assisted living; and to encourage the development of innovative and affordable assisted living establishments and shared housing with service establishments for elderly persons of all income levels. It is the public policy of this State that assisted living is an important part of the continuum of long term care. In support of the goal of aging in place within the parameters established by the Act, assisted living and shared housing establishments shall be operated as residential environments with supportive services designed to meet the individual resident's changing needs and preferences. The residential environment shall be designed to encourage family and community involvement. The services available to residents, either directly or through contracts or agreements, are intended to help residents remain as independent as possible. Assisted living, which promotes resident choice, autonomy, and decision-making, should be based on a contract model designed to result in a negotiated agreement between the resident or the resident's representative and the provider, clearly identifying the services to be provided. This model assumes that residents are able to direct services provided for them and will designate a representative to direct these services if they themselves are unable to do so. This model supports the principle that there is an acceptable balance between consumer protection and resident willingness to accept risk and that most consumers are competent to make their own judgments about the services they are obtaining.

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Regulation of assisted living establishments and shared housing establishments must be sufficiently flexible to allow residents to age in place within the parameters of the Act. The administration of the Act and services provided must therefore ensure that the residents have the rights and responsibilities to direct the scope of services they receive and to make individual choices based on their needs and preferences. These establishments shall be operated in a manner that provides the least restrictive and most homelike environment and that promotes independence, autonomy, individuality, privacy, dignity, and the right to negotiated risk in residential surroundings. It is not the intent of the State that establishments licensed under this Act be used as halfway houses for alcohol and substance abusers. (Section 5 of the Act)

b) The purpose of this Part is to establish standards for assisted living and shared housing establishments. The standards support the concept of aging in place and promote the availability of appropriate services for elderly and disabled persons in a homelike environment that enhances the dignity, independence, individuality, privacy, choice and decision-making ability of the resident.

c) This Part requires assisted living and shared housing establishments to address standards in the delivery of services to residents and to design the physical environment to support dignity, independence, individuality, privacy, choice, and the decision-making abilities of individual residents.

Section 295.200 Definitions

The following terms have the meaning ascribed to them here whenever the term is used in this Part:

Abuse - any physical or mental injury or sexual assault inflicted on a resident, other than by accidental means, in an establishment.

Act - the Assisted Living and Shared Housing Act (Public Act 91-656, effective January 1, 2001).

Activities of daily living - eating, dressing, bathing, toileting, transferring, or personal hygiene. (Section 10 of the Act)

Adequate - enough in either quantity or quality, as determined by a reasonable person. This determination must be consistent with current professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to an establishment issued by the Department under Section 295.1060 of this Part that indicates that a situation, condition or practice in the establishment violates the Act

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or this Part at the level of a Type 3 violation.

Applicant - the individual, partnership, corporation, association, or other person that owns or operates an assisted living or shared housing establishment and makes application for a license.

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation, as determined by a reasonable person. This determination must be consistent with current professional standards of the subject under review.

Assessment - see Physician's Assessment.

Assisted living establishment or establishment - a home, building, residence, or any other place where sleeping accommodations are provided for at least three unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purpose of the Act:

services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home; community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

a physical environment that is a homelike setting that includes the following and such other elements as established by the Department in conjunction with the Assisted Living and Shared Housing Advisory Board: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which two residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

Assisted living establishment or establishment does not mean any of the following:

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A home, institution, or similar place operated by the federal government or the State of Illinois.

A long term care establishment licensed under the Nursing Home Care Act. However, a long term care establishment may convert distinct parts of the establishment to assisted living. If the long term care establishment elects to do so, the establishment shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

An establishment for child care as defined in the Child Care Act of 1969.

A community living establishment as defined in the Community Living Facilities Licensing Act.

A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

An establishment licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

A supportive residence licensed under the Supportive Residences Licensing Act.

A life care establishment as defined in the Life Care Facilities Act; a life care establishment may apply under the Act to convert sections of the community to assisted living.

A free-standing hospice establishment licensed under the Hospice Program Licensing Act.

A shared housing establishment.

A supportive living establishment as described in Section 5-5.01a of the Illinois Public Aid Code. (Section 10 of the Act)

Chemical restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms.

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Comprehensive assessment - see Physician's assessment.

Contract - a legal document containing all information required by Section 90 of the Act between the resident or his/her representative and the establishment, outlining the rights and responsibilities of both parties.

Department - the Department of Public Health. (Section 10 of the Act)

Developmental disability - a severe, chronic disability of a person that:

is attributable to a mental or physical impairment or combination of mental and physical impairments;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and

reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated.

Dietician - a person who is a licensed dietician as provided in the Dietetic and Nutrition Services Practice Act.

Direct care - the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

Direct care staff - any person who provides assistance with nursing care or assistance with feeding, dressing, movement, bathing or other personal needs to a resident.

Direct supervision - oversight of the establishment by the manager.

Emergency situation - imminent danger of death or serious physical harm to a resident of an establishment. (Section 10 of the Act)

Evaluation or establishment evaluation - a determination by the establishment of a resident's abilities and needs, which takes into account the physician's assessment pursuant to Section 295.4000.

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Financial exploitation - the act of obtaining control over the resident or his/her property through deception or intimidation with the intent of depriving the resident of the use, benefit or possession of his/her property.

Financial viability - having sufficient assets to provide mandatory services and utilities for at least a three-month period of time.

Full time - on duty a minimum of 36 hours, four days per week.

Governing body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of an establishment and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian - a person appointed under the Probate Act of 1975 as a guardian of the person or guardian of the estate, or both, of a resident.

Home health agency - a public agency or private organization that is licensed to provide home health services under the Home Health Agency Licensing Act.

Intermittent health-related services - health-related services provided episodically, irregularly, or for a limited time period.

License - any of the following types of licenses issued to an applicant or licensee by the Department:

Probationary license - a license issued to an applicant or licensee that has not held a license under the Act prior to its application or pursuant to a license transfer in accordance with Section 50 of the Act.

Regular license - a license issued by the Department to an applicant or licensee that is in substantial compliance with the Act and this Part. (Section 10 of the Act)

Licensed health care professional - a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse who holds a valid Illinois license under the applicable licensure statute. (Section 10 of the Act)

Licensee - a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment. (Section 10 of the Act)

Manager - the individual in charge of overseeing and responsible for

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the day-to-day operation of the establishment.

Mandatory services - include the following:

3 meals per day available to the residents prepared by the establishment or an outside contractor;

housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

personal laundry and linen services available to the residents provided or arranged for by the establishment;

security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;

an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and

assistance with activities of daily living as required by each resident. (Section 10 of the Act)

Medication administration - refers to a licensed health care professional employed by the establishment engaging in administering routine insulin and vitamin B-12 injections, oral medications, topical treatments, eye and ear drops, or nitroglycerine patches. (Section 70 of the Act)

Medication reminders - reminding residents to take pre-dispensed, self administered medication, observing the resident, and documenting whether or not the resident took the medication. (Section 70 of the Act)

Neglect - a failure by the establishment to provide services, as outlined in the service delivery contract; a failure to notify the appropriate health care professional that an assessment is necessary in accordance with the service plan; a failure to modify a service plan, as appropriate, based on a new physician's assessment; or a failure to terminate the residency of an individual whose needs can no longer be met by the establishment, which failure results in an avoidable decline in function.

Negotiated risk - the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident

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and the resident's representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks. (Section 10 of the Act)

Negotiated risk agreement - a binding agreement, in compliance with Section 295.2070 of this Part, describing conditions or situations that could put the resident at risk of harm or injury, and describing the resident's agreement with the establishment for how those conditions or situations are to be handled.

Nonmedical services - optional services such as, but not limited to, transportation; social, recreational, educational and religious services; and shopping.

Nurse - a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Operator - the person responsible for the control, maintenance and governance of the establishment, its personnel and physical plant.

Optional services - may include but are not limited to medication reminders, supervision of self-administered medication, medication administration and nonmedical services. (Section 70 of the Act)

Other resident injury - occurs when a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Owner - the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 10 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity.

Physical restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's

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body, that the individual cannot remove easily and that restricts freedom of movement or normal access to one's body.

Physician - a person licensed under the Medical Practice Act of 1987 to practice medicine in all of its branches. (Section 10 of the Act)

Physician's assessment - a comprehensive assessment that includes an evaluation of the resident's or prospective resident's physical, cognitive, and psychosocial condition, completed by a physician. (Section 15 of the Act)

Residency termination - the relocation or transfer of a resident from an establishment.

Resident - a person residing in an assisted living or shared housing establishment. (Section 10 of the Act)

Resident's representative - a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident to be his or her representative. This designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department. (Section 10 of the Act)

Risk management - the process by which an establishment assesses and addresses potential liability.

Self - the individual or the individual's designated representative. (Section 10 of the Act)

Service plan - a written plan developed and mutually agreed upon by the provider and the resident; which is reviewed annually, or more often as the resident's condition, preferences, or service needs change; and which serves as a basis for the service delivery contract between the provider and the resident. (Section 15 of the Act)

Severe mental illness - a condition that is characterized by the presence of a major mental disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (American Psychiatric Association, 1994), where the individual is substantially disabled due to mental illness in the areas of self-maintenance, social functioning, activities of community living and work skills, and the disability specified is expected to be present for a period of not less than one year, but does not mean Alzheimer's disease and other forms of dementia based on organic or physical disorders. (Section 75(a)(6) of the Act)

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Shared housing establishment or establishment - a publicly or privately operated free-standing residence for 12 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

services consistent with a social model that is based on the premise that the resident's unit is his or her own home;

community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

Shared housing establishment or establishment does not mean the following:

A home, institution, or similar place operated by the federal government or the State of Illinois.

A long term care establishment licensed under the Nursing Home Care Act. A long term care establishment may, however, convert sections of the establishment to assisted living. If the long term care establishment elects to do so, the establishment shall retain the Certificate of Need for its nursing beds that were converted.

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

An establishment for child care as defined in the Child Care Act of 1969.

A community living establishment as defined in the Community Living Facilities Licensing Act.

A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenets of a well-recognized church or religious denomination.

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An establishment licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

A supportive residence licensed under the Supportive Residences Licensing Act.

A life care establishment as defined in the Life Care Facilities Act; a life care establishment may apply under the Act to convert sections of the community to assisted living.

A free-standing hospice establishment licensed under the Hospice Program Licensing Act.

An assisted living establishment.

A supportive living establishment as described in Section 5-5.01a of the Illinois Public Aid Code. (Section 10 of the Act)

Sheltered care facility - a location licensed as a sheltered care facility under the Nursing Home Care Act.

Significant change in the resident's condition - a change in the resident's condition that is substantial enough to indicate to a reasonable person that current supports and services are insufficient, taking into account the resident's wishes as addressed in any negotiated risk agreements in effect. A significant change is not a temporary change in the individual's health with a predictable course, such as a cold or flu, or the gradual deterioration in the ability to carry out activities of daily living that accompanies the aging process.

Substantial compliance - meeting requirements, except for unimportant omissions or defects, given the particular circumstances involved.

Substantial failure - the failure to meet requirements, other than unimportant omissions or defects, given the particular circumstances involved.

Sufficient - same as adequate.

Supervision of self-administered medication - assisting the resident with self-administered medication using any combination of the following: reminding residents to take medication, reading the medication label to residents, checking the self-administered medication dosage against the label of the medication, confirming that residents have obtained and are taking the dosage as prescribed, and

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documenting in writing that the resident has taken (or refused to take) the medication. If residents are physically unable to open the container, the container may be opened for them. Supervision of self-administered medication shall be under the direction of a licensed health care professional. (Section 70 of the Act)

Total assistance - staff or another individual performs the entire activity of daily living without participation by the resident. (Section 10 of the Act)

Unit - a separate and physically identifiable space that is used for occupancy.

Valid license - a license that is unsuspended, unrevoked, and unexpired.

Section 295.300 Incorporated and Referenced Materials

a) The following private and professional association standards are incorporated in this Part.

- 1) National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Chapter 32, New Residential Board and Care Occupancies (2000), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.
- 2) American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorder, Fourth Edition (DSM-IV) (1994), which may be obtained from the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005.

b) The following federal guidelines are incorporated in this Part: ADA Accessibility Guidelines (ADAAG), January 1998, which may be obtained from the U.S. Access Board, 133 F Street NW, Suite 1000, Washington, D.C. 20004-1111.

c) All incorporations by reference of federal guidelines and the standards of nationally recognized organizations refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.

d) The following statutes and State rules are referenced in this Part:

- 1) Federal statutes:
 - A) Americans with Disabilities Act (42 USC 12101 et seq.)
 - 2) State of Illinois statutes:
 - A) Medical Practice Act of 1987 [225 ILCS 60]
 - B) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
 - C) Child Care Act of 1969 [225 ILCS 10]
 - D) Hospital Licensing Act [210 ILCS 85]
 - E) Nursing Home Care Act [210 ILCS 45]
 - F) Probate Act of 1975 [755 ILCS 5]
 - G) Illinois Public Aid Code [305 ILCS 5]

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- H) Illinois Administrative Procedure Act [5 ILCS 100]
 I) Health Care Worker Background Check Act [225 ILCS 46]
 J) Criminal Code of 1961 [720 ILCS 5]
 K) Cannabis Control Act [720 ILCS 550]
 L) Powers of Attorney for Health Care Law [755 ILCS 45/Art. IV]
 M) Health Care Surrogate Act [755 ILCS 40]
 N) Illinois Controlled Substances Act [720 ILCS 570]
 O) Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135]
 P) Hospice Program Licensure Act [210 ILCS 60]
 Q) Freedom of Information Act [5 ILCS 140]
 R) Alzheimers's Special Care Disclosure Act [210 ILCS 4]
 S) Home Health Agency Licensure Act [210 ILCS 55]
 T) Code of Civil Procedure [735 ILCS 5]
 U) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
 V) Community Living Facilities Licensure Act [210 ILCS 35]
 W) Supportive Residence Licensure Act [20 ILCS 65]
 X) Life Care Facilities Act [210 ILCS 40]
 Y) Uniform Conviction Information Act [20 ILCS 2635]
 Z) Criminal Jurisprudence Act [720 ILCS 115]
 AA) Wrongs to Children Act [720 ILCS 150]
 3) State of Illinois rules:
 A) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)
 B) Department of Public Health
 i) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 ii) Food Service Sanitation Code (77 Ill. Adm. Code 750)
 iii) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 iv) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 v) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 vi) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 vii) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

Section 295.400 License Requirement

- a) No person may establish, operate, maintain, or offer an establishment as an assisted living establishment or shared housing establishment as defined by the Act within this State unless and until he or she obtains a valid license, which remains unsuspended, unrevoked, and unexpired.
 b) An entity that operates as an assisted living or shared housing establishment as defined by the Act without a license shall be subject to the provisions, including penalties, of the Nursing Home Care Act.
 c) No entity shall use in its name or advertise "assisted living" unless licensed as an assisted living establishment under the Act or as a

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shelter care facility under the Nursing Home Care Act that also meets the definition of an assisted living establishment under this Act, except a shared housing establishment licensed under this Act may advertise assisted living services.

- d) No public official or employee may place any person in, or recommend that any person be placed in, or directly or indirectly cause any person to be placed in, any establishment that is being operated without a valid license. (Section 25 of the Act)

Section 295.500 Application for License

- a) An applicant shall provide the following information, on forms provided by the Department, to be considered for licensure:

- 1) The business name, street address, mailing address, and telephone number of the establishment;
- 2) The name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability companies, or other types of business organizations;
- 3) Financial information establishing that the project is financially feasible, in one of the following forms:
 - A) A surety bond in an amount equal to at least three months operating expenses;
 - B) An independent certified public accountant's report expressing an opinion on the financial status of the establishment;
 - C) An audited financial report certifying the financial status of the applicant;
 - D) The entity's most recent bond rating (less than 2 years old) from Fitch's, Moody's, or Standard and Poor's rating agency that documents an "A" rating or better;
 - E) Evidence of operation for at least 2 years of a facility licensed under the Nursing Home Care Act or under the Assisted Living and Shared Housing Act; or
 - F) If the applicant is not able to provide any of the information listed in subsections (a)(3)(A)-(E), the applicant may provide any other information acceptable to the Department that demonstrates financial status;
- 4) The name and mailing address of the managing agent of the establishment, whether hired under a management agreement or lease agreement, if different from the owner or owners, and the name of the full-time manager;
- 5) Verification that the establishment has entered or will enter into a service delivery contract as provided in Section 295.2030, as required under the Act, with each resident or resident's

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representative;

- 6) The name and address of at least one natural person who shall be responsible for dealing with the Department on all matters provided for in this Part, on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent. Notwithstanding a contrary provision of the Code of Civil Procedure, personal service on the person identified pursuant to this subsection (a)(6) shall be considered service on the owner or owners and the managing agent, and it shall not be a defense to any action that personal service was not made on each individual or entity;
 - 7) The signature of the authorized representative of the owner or owners;
 - 8) Proof of an ongoing quality improvement program in accordance with Section 295.2060 of this Part;
 - 9) Information about the number and types of units and the maximum census;
 - 10) If all units are not licensed, the establishment shall maintain documentation of which units are providing assisted living services. This number shall not exceed the number of units on the license. The entire building having any licensed units shall meet the physical plant requirements of this Part.
 - 11) Information about the mandatory and optional services to be provided at the establishment;
 - 12) Proof of compliance with applicable State and local residential standards;
 - 13) A copy of the standard contract offered to residents;
 - 14) Documentation of adequate liability insurance; and (Section 30 of the Act)
 - 15) If the establishment does not have a permit under the Life Care Facilities Act and the establishment requires entrance or application fees in excess of three months of a resident's minimum fees, the establishment must maintain a bond or restricted account that guarantees the return of the resident's entrance fees and/or the unused portion of his or her deposit if the establishment ceases to operate.
- b) To support regulatory activities necessary to implement the Act, applications shall be accompanied by a nonrefundable fee of:
- 1) \$300 for an assisted living establishment and \$5 per unit; or
 - 2) \$150 for a shared housing establishment.
- c) If any of the information in the application changes during the application process, the applicant shall notify the Department, in writing, of those changes. Such written notification will become a part of the licensee's file.

Section 295.600 Issuance of an Initial Regular License

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- a) Upon receipt and review of an application for a license and review of the applicant establishment, the Director may issue a license if he or she finds:
- 1) That the individual applicant, or the corporation, partnership, or other entity if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of an establishment by virtue of financial capacity, appropriate business or professional experience, a record of lawful compliance with lawful orders of the Department and lack of revocation of a license issued under the Act or the Nursing Home Care Act during the previous five years;
 - 2) That the establishment is under the supervision of a full-time manager who meets the requirements of Section 295.3010 of this Part;
 - 3) That the establishment has staff sufficient in number with qualifications, adequate skills, education, and experience to meet the 24 hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population;
 - 4) That direct care staff meet the requirements of the Health Care Worker Background Check Act;
 - 5) That the applicant is in substantial compliance with the Act and this Part;
 - 6) That the applicant pays all required fees; and
 - 7) That, if the applicant establishment offers, advertises or markets to provide specialized services for individuals with Alzheimer's disease and related dementias through an Alzheimer's special care program, the applicant has provided an accurate disclosure document to the Department in accordance with the Alzheimer's Special Care Disclosure Act.
- b) The Department shall issue a regular license within 120 days after receipt of an application that meets the requirements of this Section. This time frame may be extended during the period from January 1, 2001 to January 1, 2002.
- c) The license shall state the number of resident units and physical location of the establishment, the date the license was issued, and the expiration date of the license.
- d) All regular licenses shall be valid for one year.
- e) Each license shall be issued only for the premises and persons named in the application, and shall not be transferable or assignable. (Section 35 of the Act)
- f) After the license is issued, the licensee shall advise the Department within 30 days after any changes in the information required in Section 295.500(a)(1), (2), (4), (6), (9), or (10) of this Part.
- g) The license shall be posted in public view in the establishment.

Section 295.700 Issuance of a Renewal License

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- a) At least 120 days, but not more than 150 days, prior to license expiration, the licensee shall submit an application for renewal of the license, in such form and containing such information as the Department requires. The application shall be accompanied by the fee prescribed in Section 295.500. If the application is approved and the establishment is in substantial compliance with all other licensure requirements, the license shall be renewed for an additional one-year period.
- b) If the application for renewal is not timely filed in accordance with subsection (a) of this Section, the Department shall so inform the licensee.
- c) If appropriate, the renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act and Section 295.1100 of this Part. (Section 45 of the Act)

Section 295.800 Probationary License

- a) The Department may issue a probationary license within 90 days after receipt of a completed application for a regular license. Circumstances in which a probationary license shall be issued include, but are not limited to:
 - 1) The applicant has not been previously licensed under the Act;
 - 2) The establishment is not in operation at the time the application is made; (Section 40 of the Act)
 - 3) The applicant is a sheltered care, intermediate care, or skilled care facility converting beds to assisted living; or
 - 4) Ownership of an establishment is transferred from the person named in the license to any other person. (Section 50 of the Act)
- b) A probationary license shall be valid for 120 days unless sooner suspended or revoked in accordance with Section 295.1000 of this Part.
- c) Within 30 days prior to the termination of a probationary license, the Department shall fully and completely review the establishment and, if the establishment meets the applicable requirements for licensure as set forth in the Act and this Part, shall issue a regular license.
- d) If the Department finds that the establishment does not meet the requirements for licensure but has made substantial progress toward meeting those requirements, the license may be renewed once for a second probationary license for a period not to exceed 120 days from the expiration date of the initial probationary license. (Section 40 of the Act)

Section 295.900 Denial of a License

- a) An application for a license may be denied for any of the following reasons:
 - 1) Failure to meet any of the standards set forth in the Act;
 - 2) Failure to be in substantial compliance with this Part;

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- 3) Conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervise the establishment, of a felony or of two or more misdemeanors involving moral turpitude during the previous five years as shown by a certified copy of the record of the court of conviction;
 - 4) Personnel insufficient in number or unqualified by training or experience to properly care for the residents;
 - 5) Insufficient financial or other resources to operate and conduct the establishment in accordance with this Part;
 - 6) Revocation of a license in Illinois during the previous five years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant and such individual applicant, controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license; provided, however, that the denial of an application for a license pursuant to this Section must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of meeting or maintaining an establishment in accordance with this Part;
 - 7) The establishment is not under the direct supervision of a full-time manager; or (Section 55 of the Act)
 - 8) Refusal to permit entry or review of the establishment by any authorized officer, employee or agent of the Department. (Section 120 of the Act)
- b) Immediately upon the denial of any application or reapplication for a license under the Act, the Department shall notify the applicant in writing. Notice of denial shall include a clear and concise statement of the violations of the Act on which the denial is based and notice of the opportunity for a hearing.
 - c) If the applicant or licensee wishes to contest the denial of a license, it shall provide written notice to the Department of a request for a hearing within 10 days after receipt of the notice of denial.
 - d) Upon the receipt of a request in writing for a hearing, the Director or a person designated in writing by the Director to act as a hearing officer shall conduct a hearing to review the decision. The hearing shall begin within 30 days after the receipt of request for hearing and shall be conducted in accordance with Section 60 of the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100). (Section 60 of the Act)
 - e) The Department may refuse to issue a license to any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or

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interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied. (Section 65(e) of the Act)

Section 295.1000 Revocation, Suspension, or Refusal to Renew a License

- a) The Department, after notice to the applicant or licensee, may suspend, revoke, or refuse to renew a license in any case in which the Department finds any of the following:
 - 1) That there has been a substantial failure to comply with the Act or this Part;
 - 2) That there has been a conviction of the licensee, or of the person designated to manage or supervise the establishment, of a felony or of two or more misdemeanors involving moral turpitude during the previous five years as shown by a certified copy of the record of the court of conviction;
 - 3) That the personnel are insufficient in number or unqualified by training or experience to properly care for the number and type of residents served by the establishment;
 - 4) That the financial or other resources are insufficient to conduct and operate the establishment in accordance with this Part; or
 - 5) That the establishment is not under the direct supervision of a full-time manager. (Section 65(a) of the Act)
- b) Notice under this Section shall include a clear and concise statement of the violations on which the suspension, nonrenewal or revocation is based, the statute or rule violated, and notice of the opportunity for a hearing under Section 60 of the Act. (Section 65(b) of the Act)
- c) If an establishment desires to contest the suspension, nonrenewal or revocation of a license, the establishment shall, within 10 days after receipt of notice under subsection (b) of this Section, notify the Department in writing of its request for a hearing under Section 60 of the Act.
- d) Upon receipt of the request the Department shall send notice to the establishment and hold a hearing as provided under Section 60 of the Act. (Section 65(c) of the Act)
- e) The effective date of suspension, nonrenewal or revocation of a license by the Department shall be as provided in Section 65(d) of the Act. (Section 65(d) of the Act)
- f) The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied. (Section 65(e) of the Act)
- g) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act, licensees who are individuals are subject to revocation or denial of renewal of licensure if the individual is more than 30 days

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- h) delinquent in complying with a child support order.
- h) The Department may extend the effective date of license revocation, suspension or expiration if necessary to permit relocation of residents.

Section 295.1010 Transfer of Ownership

- a) An establishment license is not transferable or applicable to any location, establishment, management agent or ownership other than that indicated on the application and license.
- b) Whenever ownership of an establishment is transferred from the person named in the license to any other person, the transferee must obtain a new probationary license. The transferee shall notify the Department of the transfer and apply for a new license at least 30 days prior to final transfer. (Section 50(a) of the Act)
- c) The transferor shall notify the Department at least 30 days prior to final transfer. The transferor shall remain responsible for the operation of the establishment until such time as a probationary license is issued to the transferee. (Section 50(b) of the Act)
- d) The transferor shall remain liable for all penalties assessed against the establishment that are imposed for violations occurring prior to transfer of the license. The license granted to the transferee shall be subject to any agreements made by the previous owner and approved by the Department to remedy the violation. If there are outstanding violations that have not been remedied, the Department may require that the violations be corrected prior to the issuance of a license.
- e) The residents shall be informed of any transfer of ownership of the establishment.

Section 295.1020 Information to Be Made Available to the Resident by the Licensee

- a) Each establishment shall provide a resident or representative with the following information at the time the resident is accepted into the establishment:
 - 1) A copy of current resident policies or a resident handbook;
 - 2) Whether each unit has independent heating and cooling controls and their location;
 - 3) The establishment's policy concerning response to medical emergency situations; and
 - 4) Whether the establishment provides therapeutic diets.
- b) The current telephone numbers for:
 - 1) The Illinois Department of Public Health's Office of Health Care Regulation and Assisted Living Complaint Registry;
 - 2) The Illinois Department on Aging Senior Helpline;
 - 3) The Department on Aging Long-Term Care Ombudsman Program; and
 - 4) 911 or other local emergency response.
- c) The establishment's license issued under the Act and this Part shall

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be posted in public view in the establishment.

- d) The establishment shall make available for review the results of the most recent Department survey and any statement of correction currently in effect.
- e) The establishment shall make available for review any waiver or variance currently in effect.

Section 295.1030 Information to Be Made Available to the Public by the Department

- a) Individuals may request information from the Department concerning an establishment by submitting a written request to the Department and paying reasonable copying fees for documents in excess of 20 pages. Such information may include, but is not limited to:

- 1) *Ownership*,
 - 2) *Licensure status*,
 - 3) *Frequency of complaints*,
 - 4) *Disposition of substantiated complaints*, and
 - 5) *Disciplinary actions*. (Section 110(f) of the Act)
- b) Other information shall be available from the Department through the Freedom of Information Act.

Section 295.1040 Technical Infractions

- a) A technical infraction is a situation in which the establishment's failure to meet a requirement of this Part does not result in harm and does not have a significant negative impact on the delivery of services to residents. A technical infraction may include a Type 3 violation that is identified and corrected during the on-site survey review process.
- b) The establishment shall be required to correct a technical infraction. If the establishment has taken steps to correct the technical infraction, no fine, violation, or sanction shall be imposed.
- c) Repeat of the same technical infraction during subsequent on-site surveys may result in a Type 3 violation.

Section 295.1050 Violations

For the purpose of this Section, the following definitions apply:

Violation - a situation in which the requirements of this Part are not met due to the conduct of the establishment or its staff, either by an improper action or the failure to take an action. A violation may only be based upon the licensee's improper conduct or the conduct of the licensee's staff.

Type 3 violation - an act or omission by the establishment or its staff, except by accidental means, that causes a significant negative

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impact on the delivery of services to the residents of the establishment. The establishment shall be required to participate in a consultative review with the Department unless the establishment has taken corrective action within a time frame agreed upon between the Department and the establishment.

Type 2 violation - an act or omission by the establishment or its staff that causes harm to a resident.

Type 1 violation - an act or omission by the establishment or its staff that causes severe harm or the death of a resident.

Section 295.1060 Remedies and Sanctions

- a) The Department may impose the following remedies and sanctions upon an establishment that is found to have committed a violation under the following circumstances:

- 1) Consultative conference - possible for all violations. This may be part of the on-site review, via teleconference, or other means of communication. Failure to meet the requirements after the consultative conference may result in higher sanction if the establishment does not come into compliance. A consultative conference is a remedy, not a sanction.
- 2) Statement of correction - shall be required for all levels of violation, either offered by the establishment or imposed by the Department. A statement of correction must be submitted by the licensee within 15 days after the notification to the establishment of the infraction or violation. A statement of correction must be in writing and must contain:

- A) A description of the specific corrective action the establishment is taking;
 - B) A description of the steps that will be taken to avoid future occurrences; and
 - C) A specific date by which the correction shall be completed.
- 3) Administrative warning - may be imposed for any Type 3 violation.
 - 4) Mandatory training - may be required of establishment staff for any violation.

- 5) Imposed order of correction - may be imposed for violations and repeat violations after the establishment fails to submit or carry out its own statement of correction or the establishment's plan fails to address the issue. The Department may impose an immediate order of correction for a Type 1 violation.
- 6) Fines - fines for repeat violations shall be imposed as follows:

- A) The Department may impose a fine of up to \$500 for an initial Type 2 violation.
- B) The Department may impose a fine of up to \$1000 on any provider that has repeat Type 2 violations at a subsequent on-site inspection.

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- C) The Department may impose a fine of up to \$2000 for Type 1 violations.
- D) The Department shall impose a fine of up to \$10,000 on any provider that has a repeat Type 1 violation or when the Director determines that a serious and immediate threat exists.

7) Revocation of license - may occur when other remedies have been progressively applied and the establishment has not achieved compliance. The decision to revoke a license may only be made by the Director of the Department.

- b) Remedies and sanctions shall be evaluated and imposed on the basis of:

- 1) Gravity of the violation;
 - 2) Severity of the violation;
 - 3) Pattern of occurrences of the same or similar violations; and
 - 4) History of compliance with the Act and this Part.
- c) Beginning 180 days after December 1, 2001, an unlicensed assisted living or shared housing establishment or an entity that violates Section 395.400(a), (b) or (c) shall be assessed a civil penalty not to exceed \$3,000. The entity will also be referred to the Department's Bureau of Long-Term Care for review and possible referral to the Office of the Attorney General. The Department may extend the 180-day time period to accommodate the initial processing of applications.

- d) Any licensee preventing the Department from carrying out its duties under this Section shall have its license revoked and be subject to a fine of not more than \$250 per day.

- e) Any establishment caring for a resident whose care needs exceed those authorized under the Act shall be fined \$500 for the first violation and \$1,000 for each subsequent violation. The establishment shall not be found in violation if a sudden change in a resident's condition, making the resident ineligible for residency, has occurred within the last 72 hours, the establishment is actively attempting to find placement for the resident in an alternative care setting, and the establishment has initiated involuntary termination of residency proceedings. An establishment shall be deemed to be "actively attempting" to find alternative placement if the following occurs:

- 1) The establishment is assisting the resident in finding alternative placement; and
 - 2) A reasonable relocation plan is in place, including a time frame and provision of services in the interim.
- f) An establishment that fails to conduct a health care worker background check as required by Section 295.3040 shall be fined \$100 for each offense.

Section 295.1070 Annual On-Site Review and Complaint Investigation Procedures

- a) The Department shall conduct an annual unannounced on-site visit at each assisted living and shared housing establishment to determine

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compliance with the applicable licensure requirements and standards, as set forth in the Act and this Part. Additional visits may be conducted without prior notice to the assisted living or shared housing establishment. (Section 110(a) of the Act)

- b) The purpose of the annual on-site review shall be to ensure establishments' compliance with this Part and to assist the licensee in meeting the requirements of this Part and providing quality services to the consumer. The visit shall focus on solving resident issues and concerns, and the quality improvement process implemented by the establishment to address resident issues. (Section 30(a) of the Act) The on-site review shall be conducted in a collaborative manner, with the Department and the establishment focused on meeting the needs of the residents.

- c) The review shall address the following issues:

- 1) Assessment, service plan and services provided to ensure that resident needs are met;
 - 2) Staff sufficient in numbers and with appropriate skill to provide services required by the resident population;
 - 3) Compliance with the Health Care Worker Background Check Act;
 - 4) Compliance with service delivery contracts and lease agreements;
 - 5) Grievance procedures;
 - 6) Service plan, negotiated risk, and protection of individual rights and resident's involvement in directing his or her own care;
 - 7) Quality improvement policies and procedures to determine whether an effective procedure is in place. Quality improvement policies shall not be used as the sole criterion for issuance of a violation;
 - 8) Whether an annual resident satisfaction survey has been conducted;
 - 9) Compliance with physical plant, health and sanitation, and food preparation requirements as set forth in this Part;
 - 10) Any complaints not reviewed through an on-site review; and
 - 11) Incident and accident reports that are required to be submitted to the Department.
- d) An establishment shall not restrict or hamper access by Department staff to the building, residents or designated records required to conduct routine or periodic review or investigations. A resident may limit access to his or her private dwelling space to reviewers, except if suspected violations exist that may pose a threat to the resident's or others' health, safety or well-being. A resident may also elect to limit access to himself or herself and his or her records, except as required as a condition of payment for publicly funded housing and/or services.

- e) When the Department identifies a technical infraction during an on-site inspection, the Department representative shall engage the establishment staff in a consultative conference. If the establishment resolves the technical infraction prior to the end of

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the on-site inspection, no violation shall be deemed to exist and no violation shall be reported. The Department may recommend methods of addressing the technical infraction.

- f) Prior to concluding the on-site inspection, the Department representative shall meet with the manager regarding any identified technical infraction. The Department shall allow the establishment an opportunity to discuss the technical infraction and to present any evidence that indicates that the violation did not exist or evidence related to the level of the violation.
- g) The Department shall provide the establishment with a written statement of findings and violations no later than 20 days after conclusion of the on-site review.
- h) The establishment shall file a statement of correction within 15 days after receipt of the statement of findings and violations. The statement of correction may be in letter form and shall describe the action taken by the establishment to address the violation. The establishment may also submit a statement of dispute regarding any of the alleged violations within 15 days. The Department shall review all statements of dispute submitted prior to making its final determination that a violation exists or of the level of the violation. If the Department does not make a change to the statement of violations based upon the statement of dispute, it shall provide a brief justification of its determination in writing.
- i) The notice of findings shall include the reason for the determination and a statement of the right to appeal the determination pursuant to the Department's Rules of Practice and Procedure in Administrative Hearings.
- j) Whenever there is a revisit for a Type 1 violation or a pervasive pattern of Type 2 violations, the Department shall conduct the on-site revisit within 30 days after the Department's receipt of the statement of correction or within 30 days after the corrective action is completed to confirm that the establishment has carried out the corrective action. Nothing prohibits the Department from conducting a revisit at any time.

Section 295.1080 Waivers

- a) The Department may grant a waiver from this Part if the licensee or applicant can demonstrate that an alternative is available to ensure the residents' health, safety, and welfare.
- b) An applicant or licensee shall submit a written request for a waiver on a Department-provided form that includes:
 - 1) The applicant's or licensee's name;
 - 2) The name, address, and license number, if applicable, of the assisted living or shared housing establishment;
 - 3) The specific Section of this Part for which the applicant is requesting a waiver;
 - 4) The reason or reasons why an applicant is not able to comply with

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the requirement; and
 5) An alternative that ensures that the health, safety, and welfare of residents are protected.

- c) The Department shall evaluate a request for a waiver as follows:

- 1) Review the written request;
- 2) Verify the submitted documentation;
- 3) If the requested waiver involves a physical plant requirement, inspect the establishment; and
- 4) If applicable, discuss the waiver with the establishment's manager or manager's designee, residents or representatives, or any individual the Department determines is necessary to evaluate the request.
- d) If the Department issues a waiver, the Department shall provide a written notice to the applicant or licensee within 90 days after receipt of the request for a waiver.
- e) The Department shall issue a notice of denial within 90 days if the Department determines that the proposed alternative does not ensure that the health, safety and welfare of the residents are protected.
- f) The Department shall withdraw a waiver if:
 - 1) A licensee does not comply with the conditions of the waiver as approved by the Department;
 - 2) The Department determines that the health, safety, or welfare of residents is not protected by the waiver;
 - 3) The condition of the physical plant has deteriorated or its use substantially changed so that the basis upon which the waiver was issued is materially different; or
 - 4) The establishment is renovated or remodeled in such a way as to permit compliance.
- g) The Department may limit the time period that a waiver is in effect.

Section 295.1090 Complaints

- a) Complaints may be submitted either in writing, by telephone or by other electronic means to the Assisted Living Complaint Registry.
- b) The Department shall conduct an onsite investigation (see Section 295.1080) of all complaints alleging abuse or neglect within seven days after the receipt of the complaint, except that complaints of abuse or neglect that indicate that a resident's life or safety is in imminent danger shall be investigated within 24 hours after receipt of the complaint.
- c) The Department may address those complaints that do not require an on-site review through record review and/or telephone interviews.
- d) At the initiation of a complaint investigation, the Department shall inform the establishment that a complaint has been filed and of the specific nature of the complaint so that the identity of the complainant or resident involved is not disclosed.
- e) The Department shall review and consider any information submitted by the establishment in response to an investigation.

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f) The Department shall determine whether the Act or this Part has been violated and shall inform the complainant and the establishment of its findings in writing within 20 days after its determination. The Department's findings may include documentation provided by either the complainant or the licensee pertaining to the complaint. The notice of such findings shall include the reason for the determination and a statement of the right to appeal pursuant to the Department's Rules of Practice and Procedure in Administrative Hearings.

g) The Department shall conduct an on-site review and evaluation of an assisted living or shared housing establishment found to be in violation of the Act within a specified period of time based on the gravity and severity of the violation and any pervasive pattern of occurrences of the same or similar violations. (Section 110(c) of the Act)

Section 295.1100 Alzheimer's Special Care Disclosure

An establishment that offers, advertises or markets to provide care for persons with Alzheimer's disease through an Alzheimer's special care program shall disclose to the Department or to a resident or potential resident of the establishment the following information in writing on request of the Department or resident:

- a) The form of care or treatment that distinguishes the establishment as suitable for persons with Alzheimer's disease;
- b) The philosophy of the establishment concerning the care or treatment of persons with Alzheimer's disease;
- c) The establishment's pre-admission, admission, and residency termination procedures;
- d) The establishment's assessment, care planning, and implementation guidelines in the care and treatment of persons with Alzheimer's disease, including whether individuals are or are not monitored about eating, drinking, and personal hygiene; whether individuals will be monitored for potentially dangerous behavior while in their rooms; and whether a resident representative will be contacted with concerns that might require a change in the service plan;
- e) The establishment's minimum and maximum staffing ratios, specifying the general licensed health care provider to resident ratio and the trainee health care provider to resident ratio;
- f) The establishment's physical environment, including whether doors are monitored;
- g) Activities available to residents at the establishment;
- h) The role of family members in the care of residents at the establishment; and
- i) The costs of care and treatment under the program. (Section 15 of the Alzheimer's Special Care Disclosure Act)

SUBPART B: POLICIES

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Section 295.2000 Residency Requirements

- a) No individual shall be accepted for residency or remain in residence if the establishment cannot provide or secure appropriate services, if the individual requires a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or if the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services. (Section 75(a) of the Act)
- b) Only adults may be accepted for residency. (Section 75(b) of the Act)
- c) A person shall not be accepted for residency if:
 - 1) The person poses a serious threat to himself or herself or to others;
 - 2) The person is not able to communicate his or her needs in any manner and no resident representative residing in the establishment, and with a prior relationship to the person, has been appointed to direct the provision of services;
 - 3) The person requires total assistance with 2 or more activities of daily living;
 - 4) The person requires the assistance of more than one paid caregiver at any given time with an activity of daily living;
 - 5) The person requires more than minimal assistance in moving to a safe area in an emergency. For the purpose of this Section, minimal assistance means that the resident is able to respond, with or without assistance, in an emergency to protect himself/herself, given the staffing and construction of the building;
 - 6) The person has a severe mental illness, which for the purposes of this Section means a condition that is characterized by the presence of a major mental disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), where the individual is substantially disabled due to mental illness in the areas of self-maintenance, social functioning, activities of community living and work skills, and the disability specified is expected to be present for a period of not less than one year, but does not mean Alzheimer's disease and other forms of dementia based on organic or physical disorders. Nothing in this Section is meant to prohibit an individual with a diagnosis of depression from living in an establishment so long as the resident is not substantially disabled in the areas of self-maintenance, social functioning, activities of community living, and work skills;
 - 7) The person requires intravenous therapy or intravenous feedings unless self-administered or administered by a qualified, licensed health care professional;
 - 8) The person requires gastrostomy feedings unless self-administered or administered by a licensed health care professional;
 - 9) The person requires insertion, sterile irrigation, and

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replacement of catheter, except for routine maintenance of urinary catheters, unless the catheter care is self-administered or administered by a licensed health care professional;

10) The person requires sterile wound care unless care is self-administered or administered by a licensed health care professional;

11) The person requires sliding scale insulin administration unless self-performed or administered by a licensed health care professional;

12) The person is a diabetic requiring routine insulin injections unless the injections are self-administered or administered by a licensed health care professional;

13) The person requires treatment of stage 3 or stage 4 decubitus ulcers or exfoliative dermatitis; or

14) The person requires 5 or more skilled nursing visits per week for conditions other than those listed in subsection (c)(13) for a period of 3 consecutive weeks or more except when the course of treatment is expected to extend beyond a 3 week period for rehabilitative purposes and is certified as temporary by a physician. (Section 75(c) of the Act)

d) A resident with a condition listed in subsection (c) shall have his or her residency terminated in accordance with Section 295.2010. (Section 75(d) of the Act)

e) Residency shall be terminated in accordance with Section 295.2010 of this Part when services available to the resident in the establishment are no longer adequate to meet the needs of the resident. This provision shall not be interpreted as limiting the authority of the Department to require the residency termination of individuals. (Section 75(e) of the Act)

f) Subsection (d) of this Section shall not apply to terminally ill residents who receive or would qualify for hospice care coordinated by a hospice licensed under the Hospice Program Licensing Act or other licensed health care professional employed by a licensed home health agency and the establishment and all parties agree to the continued residency. (Section 75(f) of the Act)

g) Subsections (c)(3), (4), (5) and (9) shall not apply to individuals who are quadriplegic or paraplegic, or individuals with neuro-muscular diseases, such as muscular dystrophy and multiple sclerosis, or other chronic diseases and conditions if the individual is able to communicate his or her needs and does not require assistance with complex medical problems, and the establishment is able to accommodate the individual's needs. (Section 75(g) of the Act)

h) For the purposes of subsections (c)(7) through (11), a licensed health care professional may not be employed by the owner or operator of the establishment, its parent entity, or any other entity with ownership common to either the owner or operator of the establishment or parent entity, including but not limited to an affiliate of the owner or operator of the establishment. Nothing in this Section is

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meant to limit a resident's right to choose his or her health care provider. (Section 75(h) of the Act)

Section 295.2010 Termination of Residency

a) Voluntary termination of residency

1) A resident or resident's representative may terminate residency immediately after notice to the establishment due to any of the following: neglect, abuse, financial exploitation or imminent danger of life, health, or safety that is caused by the establishment.

2) Upon a resident's death and removal of the resident's property from the unit, the lease agreement shall terminate.

3) A resident or resident's representative may terminate residency by providing 30 day's written notice to the licensee.

b) Involuntary termination of residency

1) Residency shall be involuntarily terminated only for the following reasons:

A) as provided in Section 75 of the Act and Section 295.2000 (Residency Requirements) of this Part;

B) nonpayment of contracted charges after the resident and the resident's representative have received a minimum of 30 days written notice of the delinquency and the resident or the resident's representative has had at least 15 days to cure the delinquency; or

C) failure to execute a service delivery contract or to substantially comply with its terms and conditions, failure to comply with the assessment requirements contained in Section 15 of the Act, or failure to substantially comply with the terms and conditions of the lease agreement. (Section 80(a) of the Act)

2) A 30 day written notice of involuntary residency termination shall be provided to the resident, the resident's representative, or both, and the ombudsman. (Section 80(b) of the Act)

3) The notice shall be on a form prescribed by the Department and shall contain all of the following:

A) The stated reason for the residency termination;

B) The proposed date of the residency termination;

C) A statement of the resident's right to appeal;

D) The steps that the resident or the resident's representative must take to initiate an appeal;

E) A statement of the resident's right to continue to reside in the establishment until a decision is rendered;

F) A toll free telephone number to initiate an appeal;

G) A written hearing request form, together with a postage paid, pre-addressed envelope to the Department; and (Section 80(b) of the Act)

H) The name, address, and telephone number of the person at the

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nonemergencies, and where possible in emergencies, the transition plan shall be designed and implemented in advance of transfer or residency termination. (Section 80(f) of the Act)

Section 295.2020 Notice of Closure

- a) An owner of an establishment shall give 90 days notice prior to voluntarily closing the establishment or prior to closing any part of the establishment if closing the part will require residency termination. The notice shall be given to:
 - 1) The Department,
 - 2) Any resident who must have his/her residency terminated,
 - 3) The resident's representative, and
 - 4) A member of the resident's family, where practicable.
- b) The notice shall state the proposed date of closing and the reason for closing.
- c) The establishment shall offer to assist the resident in securing alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternative placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The establishment shall comply with all applicable laws and this part until the date of closing, including those related to residency termination. (Section 100 of the Act)

Section 295.2030 Establishment Contracts

- a) A contract between an establishment and a resident must be entitled "assisted living establishment contract" or "shared housing establishment contract" as applicable, shall be printed in no less than 12 point type, and shall include at least the following elements in the body or through supporting documents or attachments:
 - 1) The name, street address, and mailing address of the establishment;
 - 2) The name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, the type of business entity of the owner or owners;
 - 3) The name and mailing address of the managing agent of the establishment, whether hired under a management agreement or lease agreement, if the managing agent is different from the owner or owners;
 - 4) The name and address of at least one natural person who is authorized to accept service on behalf of the owners and managing agent;
 - 5) A statement describing the assisted living or shared housing establishment license status of the establishment and the license status of all providers of health-related or supportive services to a resident under arrangement with the establishment;

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establishment offering relocation assistance pursuant to subsection (b)(1).

- 4) If the resident or the resident's representative, if any, cannot read English, the notice must be provided in a language the individual receiving the notice can read or the establishment must provide a translator who has been trained to assist the resident or the resident's representative in the appeal process. (Section 80(b) of the Act)
- 5) In emergency situations as defined in Section 295.200 of this Part, the 30-day provision of the written notice may be waived. (Section 80(b) of the Act)
- 6) The establishment shall attempt to resolve with the resident or the resident's representative, if any, circumstances that if not remedied have the potential of resulting in an involuntary termination of residency and shall document those efforts in the resident's file. This action may occur prior to or during the 30 day notice period, but must occur prior to the termination of the residency. In emergency situations, the requirements of this subsection may be waived. (Section 80(c) of the Act)
- 7) A request for a hearing shall stay an involuntary termination of residency until a decision has been rendered by the Department in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100), except as otherwise provided in this Part. During this time period, the establishment may not terminate or reduce any service for the purpose of making it more difficult or impossible for the resident to remain in the establishment. (Section 80(d) of the Act)
- 8) The only issues to be considered at the involuntary termination of residency hearing are whether one or more of the statutory reasons exist for involuntary termination; whether the establishment has followed the proper involuntary termination procedures; and whether the establishment has attempted to resolve the circumstances leading to an involuntary termination.
- 9) The establishment shall offer the resident and the resident's representative, if any, residency termination and relocation assistance including information on available alternative placement. Residents shall be involved in planning the move and shall choose among the available alternative placements except when an emergency situation makes prior resident involvement impossible. Emergency placements are deemed temporary until the resident's input can be sought in the final placement decision. No resident shall be forced to remain in a temporary or permanent placement. (Section 80(e) of the Act)
- 10) The Department may offer assistance to the establishment and the resident in the preparation of residency termination and relocation plans to assure safe and orderly transition and to protect the resident's health, safety, welfare, and rights. In

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- 6) The duration of the contract;
 - 7) The base rate to be paid by the resident and a description of the services to be provided as part of this rate;
 - 8) A description of any additional services to be provided for an additional fee by the establishment directly or by a third party provider under arrangement with the establishment;
 - 9) The fee schedules outlining the cost of any additional services;
 - 10) A description of the process through which the contract may be modified, amended, or terminated;
 - 11) A description of the establishment's complaint resolution process available to residents and notice of the availability of the Department on Aging's Senior Helpline and the Long-Term Care Ombudsman Program for assistance with complaint resolution;
 - 12) The name of the resident's designated representative, if any;
 - 13) The resident's obligations in order to maintain residency and receive services, including compliance with all assessments required under Section 15 of the Act;
 - 14) The billing and payment procedures and requirements;
 - 15) A statement affirming the resident's freedom to receive services from service providers with whom the establishment does not have a contractual arrangement, which may also disclaim liability on the part of the establishment for those services;
 - 16) A statement that medical assistance under Article V or Article VI of the Illinois Public Aid Code is not available for payment for services provided in an establishment;
 - 17) A statement detailing the admission and residency termination criteria and procedures as set forth in the Act and this Part;
 - 18) A statement indicating that the establishment maintains a risk management process;
 - 19) A statement listing the rights specified in Section 95 of the Act and acknowledgment that, by contracting with the assisted living or shared housing establishment, the resident does not forfeit those rights; and
 - 20) A statement provided by the Department detailing the Department's annual on-site review process, including what documents contained in the resident's personal file shall be reviewed by the on-site reviewer. (Section 90 of the Act)
- b) The establishment contract shall also include:
- 1) Terms of occupancy, including resident responsibilities and obligations;
 - 2) The amount and purpose of any fee, charge, and deposit, including any fee or charge for any days a resident is absent from the establishment;
 - 3) The establishment's policy for refunding fees, charges, or deposits;
 - 4) The establishment's responsibility to provide at least 30 days written notice before the effective date of any change in a fee or charge. A licensee is not required to provide 30 days written

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- notice of increase to a resident whose service needs change, as documented in the resident's service plan; and
- 5) The establishment's policy concerning notification of a relative or other individual in an emergency, significant change in the resident's condition, or termination of residency.
 - c) A copy of the establishment contract shall be given to the resident or the resident's representative.
 - d) An establishment contract that has been signed shall be maintained on the premises throughout the resident's residency at the establishment.
 - e) Establishment contracts may be automatically renewed from year to year. Any modifications to the contract shall be made in writing and signed by both parties.
 - f) The contract may be terminated immediately at any time upon agreement of the parties.

Section 295.2040 Disaster Preparedness

- a) For the purpose of this Section, "disaster" means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the establishment.
- b) Each establishment shall:
 - 1) Have a written plan for protection of all persons in the event of disasters, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary. The plan shall address the physical and cognitive needs of residents and include special staff response, including the procedures needed to ensure the safety of any resident. The plan shall be amended or revised whenever any resident with unusual needs is admitted. The plan shall also:
 - A) provide for the temporary relocation of residents for any disaster requiring relocation;
 - B) provide for the movement of residents to safe locations within the establishment in the event of a tornado warning or severe thunder storm warning issued by the National Weather Service;
 - C) provide for the temporary relocation of residents any time the temperature in residents' bedrooms falls below 55°F for 12 hours or more as a result of a mechanical problem or loss of power in the establishment;
 - D) provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature (see Section 295.205, Table A), as established by the National Oceanic and Atmospheric Administration, inside the residents' living, dining, activities, or sleeping areas of the establishment exceeds a heat index/apparent temperature of 80°F;

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- E) address power outages; and
 - F) include contingencies in the event of flooding, if located on a flood plain.
- 2) Instruct all personnel employed on the premises in the use of fire extinguishers.
- 3) Post a diagram of the evacuation route and ensure that all personnel employed on the premises are aware of the route.
- 4) Ensure that there is a means of notification to the establishment when the National Weather Service issues a tornado or severe thunderstorm warning covering the area in which the establishment is located. The notification mechanism must be other than commercial radio or television. Notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the establishment, or arrangements with local public safety agencies (police, fire, ESDA) to be notified if a warning is issued.
- 5) Orient each resident to the emergency and evacuation plans within 10 days after the resident's arrival. Orientation shall include assisting residents in identifying and using emergency exits. Documentation of the orientation shall be signed and dated by the resident or the resident's representative.
- c) At least six drills shall be conducted per year on a bimonthly basis. At least two of the drills shall be conducted during the night when residents are sleeping. All drills shall be held under varied conditions to:
- 1) Ensure that all personnel on all shifts are trained to perform assigned tasks;
 - 2) Ensure that all personnel on all shifts are familiar with the use of the fire fighting equipment in the facility;
 - 3) Evaluate the effectiveness of disaster plans, procedures and training.
- d) The establishment shall conduct a tornado drill on each shift during February of each year for employees.
- e) Drills shall include residents, establishment personnel, and other persons in the establishment.
- f) Drills shall include making a general announcement throughout the establishment that a drill is being conducted or sounding an emergency alarm. Drills may be announced in advance to residents.
- g) Drills shall involve the actual evacuation of residents to an assembly point as specified in the emergency plan and shall provide residents with experience using various means of escape. If an establishment has an evacuation capability classification of impractical, those residents who cannot meaningfully assist in their own evacuation or who have special health problems shall not be required to participate in the drill; however, other requirements of the Life Safety Code will apply.
- h) A written evaluation of each drill shall be submitted to the

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establishment manager and shall be maintained for one year from the date of the drill. The evaluation shall include the date and time of the drill, names of employees participating in the drill, and identification of any residents who received assistance for evacuation.

i) Reporting Disasters

- 1) Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the establishment manager or designee must provide a preliminary report to the Department either by using the Assisted Living Complaint Registry or by fax or by electronic means. If the disaster will not require direct Department assistance, the establishment shall provide the preliminary report within 72 hours after the occurrence. This preliminary report shall include, at a minimum:
 - A) name and location of establishment;
 - B) type of disaster;
 - C) number of injuries or deaths to residents;
 - D) number of units not usable due to the occurrence;
 - E) estimate of the extent of damages to the establishment;
 - F) type of assistance needed, if any;
 - G) other State or local agencies notified about the problem.
- 2) The establishment shall submit a full written account to the Department within seven days after the occurrence, including the information specified in subsection (i)(1) of this Section and a statement of action taken by the facility after the preliminary report was filed.

Section 295.2050 Incident and Accident Reporting

- a) An establishment shall report to the Department an incident or accident that has a significant negative effect on a resident's health, safety or welfare. A significant negative effect shall be assumed whenever an unplanned or unscheduled visit to a hospital is necessary as a result of that incident or accident, treatment is provided, and follow-up care is required.
- b) The report shall be made by contacting the Department of Public Health Assisted Living Complaint Registry or by fax or by other electronic means within 24 hours after the occurrence of the incident or accident.
- c) A copy of the report shall be maintained by the establishment for one year after the date of the incident or accident.

Section 295.2060 Quality Improvement Program

- a) The establishment shall establish an effective quality improvement program that encompasses oversight and monitoring, resident satisfaction, and ongoing quality improvement and implementation of any plan that addresses improved quality services. *The quality*

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improvement process implemented by the establishment must benchmark performance, be customer centered, be data driven, and focus on resident satisfaction. (Section 30(a) of the Act) For the purpose of this Section, "benchmark" means creating points of reference from which measurements can be made.

b) A system shall be in place to facilitate the detection of issues and problems, to expedite the implementation of action, and to resolve problems.

1) Data analysis shall be used to identify and implement changes that will improve performance or reduce the risk of additional events.

2) The establishment shall maintain documentation that shows that data analysis has occurred and that actions, as appropriate, have been implemented to address identified issues and to resolve problems, as well as any follow-up actions taken by the establishment.

c) The existence, results, and process of a quality improvement program cannot be used as evidence in any civil or criminal court proceeding.

d) The result of the quality improvement program cannot be the sole basis for citing a violation.

Section 295.2070 Negotiated Risk Agreement

a) The negotiated risk agreement, if any, shall be signed by the resident or the resident's representative and the licensee and shall describe the following:

- 1) The problem, issue or service that is the subject of the agreement;
- 2) The choices available to the resident, as well as the major risks and consequences associated with each choice;
- 3) The resulting agreement;
- 4) The responsibilities of the establishment and the resident and any other involved individual; and
- 5) A time frame for review.

b) The negotiated risk agreement may be negotiated or renegotiated at any time during the resident's stay in the establishment and may initiate a reevaluation of the service delivery plan.

c) A negotiated risk agreement shall be limited to a resident's individual care and personal environment.

d) A negotiated risk agreement shall not create a risk to the health, safety, or welfare of other residents and shall not infringe upon the rights of other residents.

e) A negotiated risk agreement shall not waive the requirements of this Part.

SUBPART C: PERSONNEL

Section 295.3000 Personnel Requirements, Qualifications and Training

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a) The establishment shall have staff sufficient in number with qualifications, adequate skills, education and experience to meet the 24 hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population. (Section 35(a)(3) of the Act)

b) The establishment shall have on duty at all times at least one direct care staff person who has obtained cardiopulmonary resuscitation (CPR) training specific to adults, which includes a demonstration of the individual's ability to perform CPR and who has current certification in CPR.

c) At the starting date of employment, each direct care staff member shall be 16 years of age or older.

d) Job descriptions shall define the minimum education and experience requirements for staff.

e) A file shall be maintained for each employee containing the following:

- 1) The employee's name, date of birth, home address, Social Security number and telephone number;
- 2) Documentation of:

- A) Freedom from pulmonary tuberculosis;
- B) Employee orientation; and
- C) Ongoing training;

3) An employee's starting date of employment and ending date, if applicable.

f) In addition to the information required in subsection (e) of this Section, the file for each direct care employee shall contain documentation of:

- 1) Current certification in CPR, if applicable;
- 2) Initial health evaluation; and
- 3) Compliance with the Health Care Worker Background Check Act.

g) All records required by this Section shall be maintained throughout the individual's employment or service and for at least 12 months after the individual's last date of employment or service, unless required for a longer period of time by State or federal law.

h) The establishment shall have sufficient personnel to provide the following for its current resident population:

- 1) All mandatory services;
- 2) Services established in each resident's service plan;
- 3) Service to meet the needs of each resident, including 24 hour scheduled and unscheduled needs, general supervision, and the ability to intervene in a crisis;
- 4) Food services (if provided by the establishment);
- 5) Environmental services;
- 6) Evacuation of residents during emergencies; and
- 7) Any optional services to be provided by the establishment as stated in the service plan.

i) The personnel schedule shall:

- 1) Indicate the date, scheduled work hours, and name and position of each employee assigned;

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- 2) Reflect actual work hours; and
- 3) Be maintained and made available upon request for at least 12 months after the last date on the schedule.
- j) If an establishment accepts individuals with impairments that prevent them from moving to an area of safety independently, sufficient staff must be present and awake to enable these residents to move to a safe area 24 hours per day.
- k) Shared housing establishments shall have at least one staff member on site at all times, except in situations, such as taking a resident to the emergency room or planned or unplanned trips to the grocery store, that would require the staff person to be away from the facility for a brief period of time. In such situations, arrangements shall be made to monitor the safety of the residents in accordance with the service delivery plan.
- l) Assisted living establishments shall have at least one staff member awake, on duty and on site 24 hours per day.
- m) The establishment shall check the status of all applicants with the Nurse Aide Registry prior to hiring. The establishment is prohibited from hiring any individual who has a finding of abuse, neglect, or misappropriation of property on the Nurse Aide Registry.

Section 295.3010 Manager's Qualifications

- a) Each assisted living establishment shall have a full-time manager.
- b) A shared housing establishment shall have a manager, who may oversee no more than three establishments if they are located within 30 minutes driving time during non-rush hour and if the manager may be immediately contacted by an electronic communication device.
- c) The manager shall be at least 21 years of age and have a high school diploma or equivalency.
- d) The manager shall receive training and orientation in care and service system delivery and have at least:
 - 1) one year of management experience in health care, housing, or hospitality or providing similar services to the elderly; or
 - 2) two years of experience in health care, housing, or hospitality or providing similar services to the elderly.
- e) The manager shall designate an individual capable of acting in an emergency to act in his or her absence from the establishment.
- f) If the manager provides direct care, the manager is required to meet the requirements of the Health Care Worker Background Check Act.
- g) Changes in manager must be reported to the Department within 10 working days.

Section 295.3020 Employee Orientation and Ongoing Training

- a) Each new employee shall complete orientation within 10 days after the starting date of employment that includes:
 - 1) The establishment's philosophy and goals;

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- 2) Promotion of resident dignity, independence, self-determination, privacy, choice, and resident rights;
- 3) Confidentiality of resident records and resident information;
- 4) Hygiene and infection control;
- 5) Abuse and neglect prevention and reporting requirements; and
- 6) Disaster procedures.
- b) Each employee shall also complete orientation within 30 days after the starting date of employment that includes:
 - 1) Orientation to the characteristics and needs of the establishment's residents;
 - 2) The significance and location of resident service plans;
 - 3) Internal establishment requirements and the establishment's policies and procedures;
 - 4) The employee's job responsibilities and limitations;
 - 5) CPR and emergency procedures for medical events, if applicable; and
 - 6) Training in assistance with activities of daily living appropriate to the job.
- c) Each manager and direct care staff member shall complete a minimum of 8 hours of ongoing training, applicable to the employee's responsibilities, every 12 months after the starting date of employment. The training shall include:
 - 1) Promoting resident dignity, independence, self-determination, privacy, choice, and resident rights;
 - 2) Disaster procedures;
 - 3) Hygiene and infection control;
 - 4) Assisting residents in self-administering medications;
 - 5) Abuse and neglect prevention and reporting requirements; and
 - 6) Assisting residents with activities of daily living.
- d) All training shall be documented with:
 - 1) Date;
 - 2) Starting and ending time;
 - 3) Instructors and their qualifications;
 - 4) Short description of content; and
 - 5) Staff member's written signature.
- e) An employee who has not demonstrated to the establishment that he or she is competent to perform a particular task may perform that task only under the direct supervision of an employee who has demonstrated competence in performing the task.

Section 295.3030 Initial Health Evaluation for Direct Care and Food Service Employees

- a) Each direct care and food service employee shall have an initial health evaluation, which shall be used to ensure that employees are not placed in positions that would pose undue risk of infection to themselves, other employees, residents, or visitors.
- b) The initial health evaluation shall be conducted not more than 30 days

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- prior to and no later than 30 days after the employee's initial employment in the establishment.
- c) The initial health evaluation shall include the employee's immunization status.
 - d) The initial health evaluation shall include a physical examination. The examination shall include a determination that the employee appears to be physically able to perform the job functions that the establishment intends to assign to the employee.
 - e) Each employee shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696). The test must meet one of the following time frames:
 - 1) The test must be completed no more than 90 days prior to the date of initial employment in the establishment; or
 - 2) The test must be commenced no more than ten days after the date of initial employment in the establishment.

Section 295.3040 Health Care Worker Background Check

- a) The establishment shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
 - 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
 - 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
 - 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
 - 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720

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- ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
- 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16); Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3); Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) Financial exploitation of an elderly or disabled person (Section

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- b) The establishment shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) through (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)
- c) An establishment shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the establishment becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) through (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that an establishment has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)
- d) For the purposes of this Section:

"Applicant" means an individual seeking employment with an establishment who has received a bona fide conditional offer of employment.

"Conditional offer of employment" means a bona fide offer of employment by an establishment to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) through (27) of this Section.

"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

- e) For purposes of the Health Care Worker Background Check Act, the establishment shall establish a policy defining which employees provide direct care. In making this determination, the establishment shall consider the following:
 - 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
 - 3) Whether the employee's responsibilities include physical contact with residents.

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- 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or
- 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).

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- f) When the establishment makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry and has had a UCIA criminal history record check within the last 2 months, the employer need not initiate another check.
- g) The establishment shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)
- h) The establishment may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.
- i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:
- 1) That the establishment shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of the criminal record report from the establishment, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of the conviction of any of the criminal offenses enumerated in subsections (a)(1) through (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.
 - 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to

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- subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
- j) An establishment may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) through (27) of this Section may request that the establishment or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- l) An establishment having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Health Care Workers Background Check Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The establishment may continue to employ that individual in a direct care position, or may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
- m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:
- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
 - 2) A certified check, money order or establishment check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2). (Section 40(a-5) of the Health Care Worker Background Check Act)
- o) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age of the individual at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;

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- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

p) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

q) An establishment is not obligated to employ or offer permanent employment to an applicant, or to retain an employee, who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

r) An establishment may retain the individual in a direct care position if the individual presents clear and convincing evidence to the establishment that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) through (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but is not limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

s) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for

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whom a criminal background check is required by another law of this State; or

- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

t) The establishment shall retain on file for a period of 5 years records of criminal records requests for all employees. The establishment shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u) The establishment shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

SUBPART D: RESIDENT CARE AND SERVICES

Section 295.4000 Physician's Assessment

- a) No more than 120 days prior to admission of a resident to any establishment, a comprehensive assessment that includes an evaluation of the prospective resident's physical, cognitive, and psychosocial condition, shall be completed by a physician. The physician's assessment shall include documentation of the presence or the absence of tuberculosis infection in accordance with the Control of Tuberculosis Code. At the time of admission, the physician's assessment must reflect the resident's current condition.
- b) At least annually, once a resident has moved into the establishment, a comprehensive assessment shall be completed by a physician.
- c) A physician's assessment shall be completed by a physician upon identification of a significant change in the resident's condition.
- d) When a physician's assessment is conducted pursuant to this Part, all current negotiated risk agreements shall be renegotiated as necessary.
- e) More frequent assessments of skin integrity and nutritional status shall be required (Section 15 of the Act) as ordered by the resident's physician and as arranged for by the resident.
- f) It is the responsibility of the resident or his/her representative to have physician's assessments and reassessments completed.
- g) Establishments may develop their own tools for evaluating their residents. Documentation of evaluations and re-evaluations may be in any form that is accurate, that addresses the resident's condition, and that incorporates the physician's assessment.
- h) The establishment shall monitor and have a reporting procedure in

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place for notifying a relative or other individual in an emergency situation, significant change in resident's condition, or termination of residency.

Section 295.4010 Service Plan

- a) *Based on the physician's assessment and establishment evaluation (see Section 295.4000), a written service plan shall be developed and mutually agreed upon by the establishment and the resident.* (Section 15 of the Act) The establishment shall respect and accept the resident's choices regarding the service plan.
- b) The service plan shall be developed by:
 - 1) The resident, resident's representative or any individual requested by the resident;
 - 2) The manager or manager's designee; and
 - 3) A registered nurse, if the resident is receiving nursing services or medication administration, or is unable to direct self-care.
- c) The service plan shall be signed and dated by all individuals involved in its development.
- d) *The service plan, which shall be reviewed annually, or more often as the resident's condition, preferences, or service needs change, shall serve as a basis for the service delivery contract between the provider and the resident* (see Section 295.2030). (Section 15 of the Act)
- e) The service plan shall be reviewed and revised if necessary immediately after a significant change in the resident's physical, cognitive, or functional condition (see Section 295.4000).
- f) *Based on the physician's assessment, the service plan may provide for the disconnection or removal of any kitchen appliance.* (Section 15 of the Act)
- g) Service plans shall address:
 - 1) The level of service the resident is receiving, including:
 - A) assistance with activities of daily living;
 - B) dietary needs, if the establishment provides therapeutic diets; and
 - C) special accommodations for the resident;
 - 2) The amount, type, and frequency of health-related services needed by the resident;
 - 3) Staff responsible for the provisions of the service plan;
 - 4) Any risk being negotiated; and
 - 5) Whether the resident requires medication reminders, supervision of self-administered medication, or medication administration.
- h) The service plan shall include all support services provided or arranged for by the establishment.
- i) Nothing in this Part limits a resident's ability to direct his or her own care and negotiate the terms of his or her own care. Residents have the right to refuse certain services or approaches that would otherwise be recommended based on the physician's assessment if the

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resident has received clear information regarding the risks and benefits of such a choice and the choice does not put other residents or staff at risk. Disclosure of the risks of refusing services or approaches must be documented in the service plan.

Section 295.4020 Mandatory Services

Each establishment shall provide or arrange for the following mandatory services:

- a) *Three meals per day available to the residents, prepared by the establishment or an outside contractor;*
- b) *Housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;*
- c) *Personal laundry and linen services available to the residents, provided or arranged for by the establishment;*
- d) *Security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;*
- e) *An emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and*
- f) *Assistance with activities of daily living as required by each resident.* (Section 10 of the Act)

Section 295.4030 Special Safety and Service Needs of Individuals Who Are Quadriplegic or Paraplegic, or Who Have Neuro-Muscular Diseases

If the establishment accepts individuals who are quadriplegic or paraplegic, or who have neuro-muscular diseases, such as muscular dystrophy and multiple sclerosis, the establishment shall provide for the special safety and service needs of those individuals. (Section 75(g) of the Act) The resident and the establishment shall enter into a written agreement describing how the special needs of the resident shall be met. Assistance by more than one person is allowed for safety reasons or if, once transferred, the resident can exit the building with minimal or no assistance in a wheelchair or motorized scooter.

Section 295.4040 Communicable Disease Policies

- a) The establishment shall meet the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).
- b) The establishment shall not knowingly admit a person with a communicable, contagious, or infectious disease, as defined in the Control of Communicable Diseases Code. A resident who is suspected of or diagnosed as having any such disease shall be placed in isolation, if required, in accordance with the Control of Communicable Diseases Code. If the establishment believes that it cannot provide the necessary infection control measures, it shall initiate residency termination pursuant to Section 80 of the Act.

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- c) All illnesses required to be reported under the Control of Communicable Diseases Code and Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The establishment shall furnish all pertinent information relating to such occurrences. In addition, the establishment shall also inform the Department of all incidents of scabies and other skin infestations.

Section 295.4050 Tuberculin Skin Test Procedures

Tuberculin skin tests for employees and residents shall be conducted in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696).

Section 295.4060 Alzheimer's and Dementia Programs

- a) Except as provided in this Section, Alzheimer and dementia programs shall comply with provisions of the Act. (Section 150(a) of the Act)
- b) No person shall be admitted or retained in an assisted living or shared housing establishment if the establishment cannot provide or secure appropriate care, if the resident requires a level of service or type of service for which the establishment is not licensed or which the establishment does not provide, or if the establishment does not have the staff appropriate in numbers and with appropriate skill to provide such services. (Section 150(b) of the Act)
- c) No persons shall be accepted for residency or remain in residence if the person's mental or physical condition has so deteriorated to render residency in such a program to be detrimental to the health, welfare or safety of the person or of other residents of the establishment. The assessment must be approved by the resident's physician and shall occur prior to acceptance for residency, annually, and at such time that a change in the resident's condition is identified by a family member, staff of the establishment, or the resident's physician. (Section 150(c) of the Act)
- d) Individual residents shall be assessed prior to admission to the establishment using any one or a combination of the following assessment tools, based in the resident's condition and stage in the disease process:
- 1) Functional
 - A) Functional Activities Questionnaire (FAQ)
 - B) Physical Self-Maintenance Scale (PSMS); Activities of Daily Living
 - C) Instrumental Activities of Daily Living (IADL)
 - D) Clock Drawing Task (CDT)
 - E) Progressive Deterioration Scale (PDS)
 - F) Functional Assessment Staging (FAST)
 - 2) Cognitive
 - A) Allen Cognitive Disabilities Theory
 - B) Alzheimer's Disease Assessment Scale, Cognitive Subsection

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- (ADAS-Cog)
- C) Blessed Information-Memory Concentration Test (BIMC)
 - D) Short Test of Mental State (STMS)
 - E) Clinical Dementia Rating Scale (CDR)
 - F) Mini-Mental State Examination (MMSE)
- 3) Global
 - A) Clinical Global Impression of Change (CGIC)
 - B) Clinical Interview-Based Scale (CIBI)
 - C) Global Deterioration Scale (GDS)
 - D) Brief Cognitive Rating Scale (BCRS) (to use with Global Deterioration Scale)
- e) No person shall be accepted for residency or remain in residence if the person is dangerous to self or others and the establishment would be unable to eliminate the danger through the use of appropriate treatment modalities. (Section 150(d) of the Act)
- f) No person shall be accepted for residency or remain in residence if the person meets the criteria provided in subsections (b) through (g) of Section 75 of the Act. (Section 150(e) of the Act)
- g) If an establishment accepts any individuals with cognitive impairments that prevent them from safely evacuating the establishment independently, sufficient staff members shall be present and awake 24 hours a day to assist in evacuation.
- h) An establishment that offers to provide a special program for persons with Alzheimer's disease and related disorders shall:
 - 1) Disclose to the Department and to a potential or actual resident of the establishment information as specified under the Alzheimer's Special Care Disclosure Act;
 - 2) Ensure that a resident's representative is designated for the resident;
 - 3) Develop and implement policies and procedures that ensure the continued safety of all residents in the establishment including, but not limited to, those who:
 - A) May wander; and
 - B) May need supervision and assistance when evacuating the building in an emergency;
 - 4) Provide coordination of communications with each resident, resident's representative, relatives and other persons identified in the resident's service plan;
 - 5) Provide, in the service plan, appropriate cognitive stimulation and activities to maximize functioning, which include a structure and rhythm that are comfortable and predictable; offer an appropriate balance of rest and activity and private and social time; allow residents to express their accustomed social roles, whatever they may be; offer residents access to familiar activities that they enjoyed doing and that tap memories and retained abilities; and provide the flexibility to accommodate variations in the resident's mood, energy level, and inclination;
 - 6) Provide an appropriate number of staff for its resident

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population. The establishment shall provide staff sufficient in number, with qualifications, adequate skills, education, and experience to meet the 24-hour scheduled and unscheduled needs of the residents and who participate in ongoing training, to serve the resident population. At a minimum, at least one staff member shall be awake and on duty at all times;

7) At a minimum, provide 1.4 hours of services per resident per day. For purposes of this Section, services shall mean assistance with activities of daily living, activities-based programming, and services delivered to the resident to meet the unique needs of residents with dementia;

8) *Require the manager and direct care staff to complete sufficient comprehensive and ongoing dementia and cognitive deficit training as set forth in subsection (i) of this Section;*

9) *Develop emergency procedures and staffing patterns to respond to the needs of residents;* (Section 150(f) of the Act)

10) Provide encouragement to eat snacks and meals and to take liquids; and

11) Have a supervisor of the program with training as outlined in subsection (i)(1) of this Section.

i) Training requirements for individuals working in a special program:

1) Manager qualifications and training:

A) The manager of an establishment providing Alzheimer care or the supervisor of an Alzheimer program must be 21 years of age and have:

i) a college degree with documented course work in dementia care, plus one year of experience working with persons with dementia; or

ii) at least two years of management experience with persons with dementia.

B) The manager or supervisor must complete, in addition to the training required in subsection (i)(2) of this Section and in Section 295.3020, six hours of annual continuing education regarding dementia care.

2) Staff training:

A) All staff members must receive, in addition to the training required in Section 295.3020, four hours of dementia-specific orientation prior to assuming job responsibilities without direct supervision within the Alzheimer's/dementia program. Training must cover, at a minimum, the following topics:

i) basic information about the causes, progression, and management of Alzheimer's disease and other related dementia disorders;

ii) techniques for creating an environment that minimizes challenging behavior;

iii) identifying and alleviating safety risks to residents with Alzheimer's disease;

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iv) techniques for successful communication with individuals with dementia; and

v) residents' rights.

B) Direct care staff must receive 16 hours of on-the-job supervision and training within the first 16 hours of employment following orientation. Training must cover:

i) encouraging independence in and providing assistance with the activities of daily living;

ii) emergency and evacuation procedures specific to the dementia population;

iii) techniques for creating an environment that minimizes challenging behaviors;

iv) resident rights and choice for persons with dementia, working with families, caregiver stress; and

v) techniques for successful communication.

C) Direct care staff must annually complete 12 hours of in-service education regarding Alzheimer's disease and other related dementia disorders. Topics may include:

i) assessing resident capabilities and developing and implementing service plans;

ii) promoting resident dignity, independence, individuality, privacy and choice;

iii) planning and facilitating activities appropriate for the dementia resident;

iv) communicating with families and other persons interested in the resident;

v) resident rights and principles of self-determination;

vi) care of elderly persons with physical, cognitive, behavioral and social disabilities;

vii) medical and social needs of the resident;

viii) common psychotropics and side effects;

ix) local community resources; and

x) other related issues.

SUBPART E: MEDICATIONS

Section 295.5000 Medication Reminders, Supervision of Self-Medication, Medication Administration and Storage

a) An establishment may provide medication reminders, supervision of self-administered medication, and medication administration as an optional service.

b) Medication reminders include:

1) Reminding residents to take pre-dispensed, self-administered medication;

2) Observing the resident; and

3) Documenting whether or not the resident took the medication.

c) Supervision of self-administered medication means assisting the

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resident with self-administered medication using any combination of the following. Supervision of self-administered medication by unlicensed personnel shall be under the direction of a licensed health care professional.

- 1) Reminding residents to take medication;
- 2) Confirming that residents have obtained and are taking the dosage as prescribed;
- 3) Reading the medication label to residents;
- 4) Checking the self-administered medication dosage against the label of the medication;
- 5) Opening the medication container for a resident who is physically unable to do so;
- 6) Confirming that residents have obtained and are taking the dosage as prescribed; and
- 7) Documenting in writing that the resident has taken (or refused to take) the medication.

d) Medication administration refers to a licensed health care professional employed by an establishment engaging in administering routine insulin and vitamin B-12 injections, oral medications, topical treatments, eye and ear drops, or nitroglycerin patches. Non-licensed staff may not administer any medication. (Section 70 of the Act)

e) Medication stored by a resident in the resident's unit shall be stored and controlled as stated in the resident's service plan and shall be inaccessible to other residents.

f) If an establishment provides medication administration or supervision of self-administered medication, the establishment's medication policies and procedures shall be approved by a physician, pharmacist, or registered nurse and shall address:

- 1) Obtaining and refilling medication;
 - 2) Storing and controlling medication;
 - 3) Disposing of medication;
 - 4) Assisting in the self-administration of medication and medication administration, as applicable; and
 - 5) Recording of medication assistance provided to residents and maintenance of medication records.
- g) If an establishment provides medication administration or supervision of self-administered medication, a drug reference guide, no older than 2 years from the copyright date, shall be available and accessible for use by employees.

h) Any medication stored by the establishment shall meet the following requirements:

- 1) Medication shall be stored in a locked container, cabinet, or area that is inaccessible to residents;
- 2) Medication shall not be left unattended by an employee;
- 3) Medication shall be stored in the original labeled container, except for medication organizers, and according to instructions on the medication label;
- 4) A bathroom or laundry room shall not be used for medication

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storage; and

- 5) Any expired or discontinued medication, including those of deceased residents, shall be disposed of according to the establishment's medication policies and procedures.

i) Except for medication organizers, resident medication shall not be pre-poured. Medication organizers may be prepared up to one month in advance by the following individuals:

- 1) A resident or the representative;
- 2) A resident's relatives;
- 3) A nurse; or
- 4) As otherwise provided by law.

j) A separate medication record shall be maintained for each resident receiving medication administration and shall include:

- 1) Name of resident;
- 2) Name of medication, dosage, directions, and route of administration;
- 3) Date and time medication is scheduled to be administered;
- 4) Date and time of actual medication administration; and
- 5) Signature or initials of the employee administering medication.

SUBPART F: RESIDENT RIGHTS

Section 295.6000 Resident Rights

a) No resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his or her status as a resident of an establishment, nor shall a resident forfeit any of the following rights:

- 1) The right to live in an environment that promotes and supports each resident's dignity, individuality, independence, self-determination, privacy, and choice and to be treated with consideration and respect;
- 2) The right to respect for bodily privacy and dignity at all times, especially during care and treatment;
- 3) The right to retain and use personal property, unless such use infringes on the health, safety, or welfare of other individuals, and a place to store personal items that is locked and secure;
- 4) The right to designate any individual to participate with the resident or in the resident's name in the development of the written service plan;
- 5) The right to receive the services specified in the service plan, to review and renegotiate the service plan at any time; and to be informed of the cost of the changes;
- 6) The right to direct his or her own care and negotiate the terms of his or her own care;
- 7) The right to refuse services unless such services are court ordered or the health, safety, or welfare of other individuals is

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endangered by the refusal, and to be advised of the consequences of that refusal;

- 8) The right to exercise free choice in selected activities, schedules, and daily routine;
- 9) The right to exercise free choice in selecting a primary care provider, pharmacy, home health provider, or other service provider and to assume responsibility for any additional costs incurred as a result of such choices. However, an establishment may specify how medications are packaged by a pharmacy if the resident receives administration of medication;
- 10) The right to request to relocate or refuse to relocate within the facility based upon the resident's needs, desires, and availability of such options;
- 11) The right to the free exercise of religion and to participate or refuse to participate in religious, social, recreational, rehabilitative, political or community activities;
- 12) The right to be free of chemical and physical restraints;
- 13) The right to be free of abuse or neglect or financial exploitation or to refuse to perform labor;
- 14) The right to confidentiality of the resident's medical, financial, or other records. The release of a record shall be by written consent of the resident or the resident's representative and shall specify the circumstances under which each individual record may be released, except as specified by law;
- 15) The right to privacy in financial and personal affairs;
- 16) The right of access and the right to review and copy the resident's personal files maintained by the establishment, during normal business hours or at a time agreed upon by the resident and the establishment;
- 17) The right to privacy with regard to mail, phone calls, and visitors;
- 18) The right to uncensored access to the State Ombudsman or his or her designee, and the right to refuse access to a State Ombudsman or Department reviewer;
- 19) The right to be free of retaliation for or constraint from criticizing the establishment or making complaints to appropriate agencies or any agency or individual;
- 20) The right to 24 hour access to the establishment and all common areas of the establishment;
- 21) The right to a minimum of 30-day notice of any change in a fee or charge or the availability of a service;
- 22) The right to a minimum of 90-day notice of a planned establishment closure;
- 23) The right to a minimum of 30-day notice of an involuntary residency termination, except where the resident poses a threat to himself or others, or in other emergency situations, and the right to appeal such termination;
- 24) The right to a 30-day notice of delinquency and at least 15 days

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- b) *Nothing in this Part is meant to limit a resident's right to choose his or her health care provider.* (Section 75(h) of the Act)

Section 295.6010 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

- a) When the establishment has a reasonable belief that a resident has been the victim of abuse, neglect, or financial exploitation, the establishment shall:
 - 1) Notify the Department within 24 hours after receiving the allegation, by contacting the Assisted Living Complaint Registry by telephone, fax, or other electronic means. The establishment shall document this report and maintain documentation on the premises for 12 months after the date of the report.
 - 2) Investigate and develop a written report within 14 days after the initial report. The establishment shall send the written report to the Department within 24 hours after it is completed and shall maintain a copy of the written report on the premises for 12 months after the date of the report.
- b) A written report of the investigation conducted pursuant to subsection (a)(2) shall contain at least the following:
 - 1) Dates, times, and description of the alleged abuse, neglect or financial exploitation;
 - 2) Description of any injury to the resident;
 - 3) Description of any change in the resident's physical, cognitive, functional, or emotional condition;
 - 4) Any actions taken by the licensee;
 - 5) A list of individuals and agencies interviewed or notified by the establishment;
 - 6) Names of witnesses to the alleged abuse, neglect, or financial exploitation; and
 - 7) If the abuse, neglect, or financial exploitation is substantial, a description of the action to be taken by the establishment to prevent the abuse, neglect or financial exploitation from occurring in the future.
- c) Establishment employees and volunteers are obligated to report abuse, neglect, or financial exploitation of a resident to the establishment management and to the Department.
- d) When the establishment has a reasonable belief that abuse, neglect or financial exploitation occurred, the perpetrator, if an employee or volunteer, shall be removed from direct contact with residents.

Section 295.6030 Resident's Representative

- a) Designation of a resident's representative may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed

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designation of representative form specified by the Department.
(Section 10 of the Act)

- b) The Department and the establishment shall recognize the authority of a resident's representative designated in accordance with this Section, a legally appointed guardian, an agent designated by the resident pursuant to the Powers of Attorney for Health Care Law, or a surrogate decision maker appointed in accordance with the Health Care Surrogate Act.
- c) The designation of a representative pursuant to the Department's form shall meet the following conditions:
 - 1) The designation shall be in writing and be signed by the resident;
 - 2) Documentation of the designation shall be provided to the establishment; and
 - 3) The resident must be competent at the time of the designation.
- d) If a resident is not able to communicate his or her own needs in any manner, the resident's representative must reside in the establishment and have a prior relationship to the resident. (Section 75(c)(2) of the Act)

SUBPART G: RESIDENT AND ESTABLISHMENT RECORDS

Section 295.7000 Resident Records

- a) *Service delivery contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment from the date of execution until three years after the date the contract is terminated.* (Section 105 of the Act)
- b) An establishment shall maintain a resident's record that contains at least the following:
 - 1) The resident's name and Social Security number;
 - 2) The date of the resident's acceptance into the establishment and the last address of the resident;
 - 3) The names, addresses, and telephone numbers of the following:
 - A) The resident's representative, if applicable;
 - B) The resident's primary health care provider; and
 - C) An individual or relative to be contacted in the event of emergency, significant change in the resident's condition, or termination of residency;
 - 4) The establishment contract and any amendments;
 - 5) Documentation of orientation to the evacuation plan;
 - 6) Notation of assessments and evaluations conducted pursuant to Section 295.4000;
 - 7) The service plan, its amendments and updates;
 - 8) A health care directive, if disclosed and applicable;
 - 9) Notation of known accidents, incidents or injuries;
 - 10) Documentation of any significant change in a resident's behavior or physical, cognitive, or functional condition that would

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trigger an assessment or evaluation, and action taken by employees to address the resident's changing needs;

- 11) A written notice of termination of residency, if applicable;
 - 12) Documentation of relocation assistance provided to the resident, if applicable;
 - 13) A negotiated risk agreement, if applicable;
 - 14) Any express waiver of confidentiality;
 - 15) If applicable, letters of guardianship, the resident's representative designation form, or durable power of attorney for health care; and
 - 16) Orders from a licensed health care provider for medication that is to be administered by the establishment.
- c) The resident, resident's representative, resident's guardian, or health care power of attorney is responsible for alerting the establishment of any changes to the information contained in the record.
 - d) An establishment shall ensure that a resident's record is:
 - 1) Confidential and only released with written permission from the resident or the representative, or as otherwise provided by law;
 - 2) Maintained at the establishment;
 - 3) Legibly recorded in ink or electronically recorded;
 - 4) Retained for 3 years from the date of termination of residency (closed records may be retained off-site); and
 - 5) Available for review by the resident or the resident's representative during normal business hours or at a time agreed upon by the resident and the manager.
 - e) An establishment shall ensure that a resident's financial records are maintained separate from a resident's record and are accessible only to individuals designated by the establishment.
 - f) The following resident records and supporting documents shall be made available for on-site inspection by the Department upon request at any time:
 - 1) Service delivery contracts and related documents executed by each resident or resident's representative, including, but not limited to, negotiated risk agreements;
 - 2) Records supporting compliance with each individual contract and with this Part; and
 - 3) Incident and accident reports that are required to be submitted to the Department. (Section 105 of the Act)

Section 295.7010 Establishment Records

The establishment shall maintain the following records:

- a) Reports of known resident injury requiring a physician's intervention;
- b) Reports of abuse, neglect, or financial exploitation that are submitted to the Department pursuant to Section 295.6010;
- c) Incident and accident reports that are required to be submitted to the Department;

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- d) Documentation of compliance with Section 295.3040 (Health Care Worker Background Check); and
- e) Quality improvement program.

SUBPART H: FOOD SERVICE

Section 295.8000 Food Service

- a) If food service is provided by the establishment or by contract with a food service provider, the following requirements shall be met:
- 1) Food services shall meet the Food Service Sanitation Code (77 Ill. Adm. Code 750) and any applicable local requirements.
 - 2) Establishments that provide or contract for therapeutic diets as an optional service to residents shall employ or contract with a dietician. A therapeutic diet means a diet ordered by a physician as part of a treatment for a disease or clinical condition, to eliminate or decrease certain substances in the diet, or to provide food in a form that the resident is able to eat. The dietician shall approve written menus and diet extensions, assess the resident's special diet needs, plan individual diets, and provide guidance to dietary staff in areas of preparation, service, and monitoring the resident's acceptance of the diet. The frequency of the dietician's visits shall be determined by the resident's dietary needs and the establishment's ability to implement the diet. Special dietary services may be considered an additional service requiring an additional fee.
 - 3) Meals shall be nutritionally balanced. The establishment shall work with residents to accommodate residents' preferences.
 - 4) Menus shall be planned and made available at least 48 hours in advance.
 - 5) The establishment shall meet temporary needs for meals delivered to residents' rooms according to establishment policy.
 - 6) Snacks, fruits and beverages shall be available to residents. This may be met by vending machines, appliances in the residents' rooms, or provision by the establishment.
 - 7) A sufficient number of personnel shall be on duty to meet the dietary needs of the residents.
- b) This Section in no way limits a resident's choice regarding his/her diet.

SUBPART I: PHYSICAL PLANT AND ENVIRONMENTAL REQUIREMENTS

Section 295.9000 Physical Plant

- a) The establishment shall comply with the residential board and care occupancies chapter of the National Fire Protection Association's (NFPA) Life Safety Code (Life Safety Code) 101, Chapter 32, New

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- Residential Board and Care Occupancies.
- b) The establishment shall comply with local and State building codes for the building type and local ordinances, fire codes, and zoning requirements. In the case of a conflict between a local requirement and this Part, the more stringent requirement shall apply. The establishment may petition the Department for a determination as to which requirement is applicable. The Department shall respond within 30 days after receipt of the petition.
- c) The establishment shall comply with the accessibility standards of the Americans with Disabilities Act (ADA Accessibility Guidelines). (Section 20(1) of the Act)
- d) If the establishment is subject to the requirements of the Illinois Accessibility Code (71 Ill. Adm. Code 400), it shall be deemed residential or multi-story housing for determining the requirements under that code.
- e) The water supply shall comply with all applicable State codes and local ordinances. Each establishment shall be served by:
- 1) Water from a municipal water system; or
 - 2) A water supply that complies with the Department's Drinking Water Systems Code (77 Ill. Adm. Code 900); or
 - 3) A water supply that complies with the Department's Public Area Sanitary Practice Code (77 Ill. Adm. Code 895).
- f) All sewage and liquid wastes shall be discharged into a public sewage disposal system or shall be collected, treated, and disposed of in a private sewage disposal system that is designed, constructed, maintained and operated in accordance with the Department's Private Sewage Disposal Code (77 Ill. Adm. Code 905).
- g) The Department may grant a waiver of physical plant standards in accordance with Section 295.1090 of this Part (Waivers). Waivers will not be granted for compliance with the Life Safety Code; however, the Department will recognize equivalencies. The Department shall review waivers relating to physical plant standards issued pursuant to this Section at the time of the annual visits and shall renew waivers, unless:
- 1) the condition of the physical plant has deteriorated or its use substantially changes so that the basis upon which the waiver was issued is materially different; or
 - 2) the establishment is renovated or substantially remodeled in such a way as to permit compliance with the applicable requirements without substantial increase in cost.
- h) A resident unit shall not be used as access to a common room, common bathroom, or another bedroom or unit.
- i) Each establishment shall provide individual mailboxes or mail delivery for residents.
- j) An assisted living establishment shall have no units below ground level. A shared housing establishment may have units below ground level if the units have a window with direct access to the outside.
- k) Illumination

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Illumination systems shall be installed and maintained to ensure sufficient general lighting, lighting for reading, night lighting for corridors and stairwells, and lighting for emergency and disaster situations. Common areas shall be lighted to assure the safety of residents. Outdoor areas shall be adequately illuminated.

- 1) Telephone
A telephone shall be located in an area easily accessible to residents that allows for private conversations.
- m) The establishment shall maintain a means of unlocking all doors, which may be used in emergency situations or as provided in the establishment contract.

Section 295.9005 Units

- a) Each unit in the establishment shall include, at a minimum, the following:
 - 1) A lockable door. The key to the unit is to be kept by the resident. The establishment shall keep a key to all lockable doors, to be used only in the case of an emergency situation. The door lock shall be capable of being disabled if required by the resident's service plan.
 - 2) A telephone jack.
 - 3) An emergency communication response system in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance. (Section 10 of the Act)
- b) To provide natural light and to provide safe egress in an emergency situation, a unit shall have:
 - 1) A window to the outside; or
 - 2) A door made of glass to the outside.

Section 295.9010 Supplemental Physical Plant Requirements for Assisted Living Establishments

- a) Each unit shall have a bathroom that provides privacy when in use and that contains:
 - 1) An operational toilet;
 - 2) An operational sink, which may be provided in the same room as the toilet or in an adjacent room;
 - 3) A mirror, unless the resident's service plan requires otherwise;
 - 4) A means of ventilation or an operable window; and
 - 5) Assistive devices such as grab bars, if identified in a resident's service plan, to provide for resident safety.
- b) Bathing facilities, whether provided in the unit or in a common room that is readily accessible to residents, shall meet the following requirements:
 - 1) All showers and bath tubs shall have slip-resistant surfaces;
 - 2) Assistive devices shall be provided if indicated by the

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- resident's service plan;
- 3) All tub enclosures and showers shall be of nonporous surfaces;
- 4) Shared bathing rooms shall be lockable from the inside; and
- 5) If more than one shower or bath tub is provided in a common bathing room, privacy curtains shall be provided.
- c) Each unit shall accommodate small kitchen appliances. (Section 10 of the Act)

Section 295.9020 Supplemental Physical Plant Requirements for Shared Housing Establishments

Shared housing establishments shall provide at least one tub and/or shower for every six residents and one operational toilet and one sink for every four residents. Each bathroom shall provide privacy when in use and shall contain:

- a) A mirror, unless the resident's service plan requires otherwise;
- b) A means of ventilation or an operable window;
- c) Nonporous surfaces for shower or tub enclosure and slip-resistant surfaces in tubs and showers; and
- d) Grab bars for the toilet and tub or shower, and other assistive devices, to provide for resident safety if required in a resident's service plan.

Section 295.9030 Furnishings

Furnishings, if provided by the establishment, shall include, at a minimum:

- a) A bed that is clean and in good repair;
- b) Adequate general and task lighting;
- c) Adjustable window covers that provide resident privacy; and
- d) A dresser or other storage space for clothing and personal effects.

Section 295.9040 Environmental Requirements

- a) The establishment shall be kept in a clean, safe and orderly condition and in good repair.
- b) The establishment shall be free of odors.
- c) The establishment shall be free of insects and rodents.
- d) Establishment garbage and refuse shall be stored in covered containers lined with plastic bags and shall be removed from the premises at least once a week.
- e) Hot water temperatures shall be maintained between 95° F and 120° F in the areas of an establishment used by residents.
- f) The supply of hot and cold water shall be sufficient to meet the personal hygiene needs of residents.
- g) Common bathrooms shall have toilet paper, soap and either cloth towels, paper towels, or a mechanical air hand dryer accessible to residents.
- h) The establishment shall have an effective means of protecting clean linen from contamination during handling, transport and storage.

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- i) Soiled linen and soiled clothing stored by the establishment shall be stored in closed containers away from food storage, kitchen, and dining areas.
- j) Oxygen containers stored by the establishment shall be maintained in an upright position or as otherwise prescribed by the manufacturer.
- k) All cleaning compounds, insecticides, and other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms separate from food preparation and storage, dining areas, and medications.
- l) Combustible or flammable liquids and hazardous materials shall be stored in the original labeled containers or safety containers inaccessible to residents and in accordance with State law.
- m) If the establishment allows pets or animals, they shall be:
- 1) Controlled to prevent endangering the residents and to maintain sanitation; and
 - 2) Licensed and vaccinated consistent with local ordinances.
- n) A first aid kit shall be available. First aid supplies shall include at least disposable bandage strips, sterile bandages or gauze pads, topical antiseptic solution, tweezers, scissors, tape, and disposable gloves.
- o) Medical waste disposal:
- 1) Medical waste that is under the establishment's control shall be properly disposed of in compliance with State law.
 - 2) Disposal of medical waste that is under a resident's control shall be addressed in the service plan.
- p) The establishment shall notify the residents at least 24 hours before pesticide application to the establishment or the establishment grounds. The notice shall advise the resident of the name (either the common name, i.e., insect killer, or actual name) of the pesticide, method of application (i.e., spray, dust, etc.), and the date of application. The establishment may choose to meet this requirement by advising residents of the date of pending pesticide applications and who to contact for more complete information.

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Section 295.APPENDIX A Physician's Assessment Form

Resident Name: _____ Resident Representative, If any: _____
Birth Date: _____ Telephone: _____
Telephone: _____ Street Address: _____
Street Address: _____ City/State/Zip: _____
City/State/Zip: _____

Other Emergency Contact Person: _____

Complete Address: _____

Telephone Number: _____

Purpose of Assessment:

_____ Prior to Admission _____ Annual _____ Significant Change in Condition

ESTABLISHMENT

Name: _____

Street Address: _____

City/State/Zip: _____

Telephone: _____

The Assisted Living and Shared Housing Act requires every resident, prior to admission, annually and upon identification of significant change in condition, to receive a comprehensive physician's assessment. The assessment must include an evaluation of the person's physical, cognitive, and psychosocial condition.

The Act prohibits persons having certain conditions or limitations and requiring certain types of care from residing in an establishment. A list of these conditions, limitations, and types of care appears in Part III of this form.

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Part I - I certify that the following have been completed:

— a physical, psychosocial, and cognitive assessment;
— written instructions for any needed home health services, including periodic nutritional and skin integrity assessments; and
instructions, as appropriate, contained in Part II of this form.

— I further certify that in my professional judgement the person for whom this certification is being completed meets the conditions, limitations, and care requirements specified in the Assisted Living and Shared Housing Act and outlined in Part III of this form.

Signature: _____

Physician Name: _____
(typed or printed)

Physician ID Number: _____

Part II - Personal Services Needs: Based on my assessment, the resident's condition warrants assistance with the following personal services: (note any specific needs and instruction)

Activity of Daily Living (ADL)	NO	YES	EXPLANATION
Eating	—	—	_____
Does resident have any special dietary needs?	—	—	_____
Dressing	—	—	_____
Toileting	—	—	_____
Transferring	—	—	_____
Bathing	—	—	_____
Personal Hygiene	—	—	_____
Can resident administer his/her own medication?	—	—	_____
Does resident require	—	—	_____

supervision when taking medications? _____

Does resident require establishment personnel to administer medication? _____

Part III - Residency Conditions, Care and Limitations

MUST

- be an adult
- pose no serious threat to anyone (including self)
- be able to communicate needs
- not have a severe mental illness

NOT NEED

- total assistance with 2 or more ADLs*
- assistance from more than 1 paid caregiver for any ADL*
- more than minimal assistance to move to safe area in case of emergency*
- 5 or more skilled nursing visits per week for conditions other than treatment of stage 3 or stage 4 decubitus ulcers (for a period not to exceed 3 consecutive weeks)

NOT NEED (unless self-administered or administered by a qualified licensed health care professional)

- intravenous and/or gastrostomy feeding therapies
- insertion, sterile irrigation, and replacement of catheter, except for routine maintenance*
- sterile wound care
- sliding scale insulin administration and injections
- treatment of stage 3 or stage 4 decubitus ulcers or exfoliative dermatitis
- * Except for quadriplegic, paraplegic, or individuals with neuro-muscular disease

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Control of Sexually Transmissible Diseases Code

2) Code Citation: 77 Ill. Adm. Code 693

3) Section Numbers: 693.30
Adopted Action: Amendment

4) Statutory Authority: Implementing and authorized by the Illinois Sexually Transmissible Diseases Control Act [410 ILCS 235] and Sections 2 and 6 of the Department of Public Health Act [20 ILCS 2305/2 and 6].

5) Effective Date of Amendment: November 1, 2001

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Incorporations by Reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: June 29, 2001 (25 Ill. Reg. 7826)

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No

11) Differences Between Proposal and Final Version: Three typographical, grammatical, and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee?
Yes

13) Will the Rulemaking Replace any Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Amendment: The rules describe the Department's monitoring of HIV case reports to determine the effectiveness of the HIV surveillance system. The amendment provides that the Department will collect data to be continually evaluated (instead of beginning evaluation on January 1, 2001) to determine whether the reporting criteria are satisfied. The rulemaking also states that the Department shall complete the evaluation of the system no later than July 1, 2003. The rules formerly required this evaluation to take place between January 1, 2001 and July 1, 2001.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

Section 295. TABLE A Heat Index Table/Apparent Temperature

(Air Temperature (degrees Fahrenheit))

	70	75	80	85	90	95	100	105	110	115	120	125	130	135
5	64	69	74	79	84	88	93	97	102	107	111	116	122	128
10	65	70	75	80	85	90	95	100	105	111	116	123	131	
15	65	71	76	81	86	91	97	102	108	115	123	131		
20	66	72	77	82	87	93	99	105	112	120	130	141		
25	66	72	77	83	88	94	101	109	117	127	139			
30	67	73	78	84	90	96	104	113	123	135	148			
35	67	73	79	85	91	98	107	118	130	143				
40	68	74	79	86	93	101	110	121	137	151				
45	68	74	80	87	95	104	115	129	143					
50	69	75	81	88	96	107	120	135	150					
55	69	75	81	89	98	110	126	142						
60	70	76	82	90	100	114	132	149						
65	70	76	83	91	102	119	138							
70	70	77	85	93	106	124	144							
75	70	77	86	95	109	130								
80	71	78	83	97	113	136								
85	71	78	87	99	117									
90	71	79	88	102	122									
95	71	79	89	105										

(Relative Humidity Percent)

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NOTICE OF ADOPTED AMENDMENTS

16) Information and Questions Regarding this adopted amendment shall be directed to:

Peggy Snyder
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
rules@idph.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS
TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 693
CONTROL OF SEXUALLY TRANSMISSIBLE DISEASES CODE

Section	Definitions
693.10	Incorporated Materials
693.15	Reportable STDs and Laboratory Results
693.20	Reporting
693.30	Fines and Penalties
693.35	Contact Interview and Investigation
693.40	Notification of Health Care Contacts
693.45	Physical Examination and Medical Treatment for Syphilis, Gonorrhea, Chlamydia
693.50	Isolation for Syphilis, Gonorrhea, Chlamydia, and Chancroid
693.60	Counseling and Education for AIDS and HIV
693.70	Isolation for AIDS and HIV
693.80	Quarantine
693.90	Confidentiality
693.100	Examination and Treatment of Prisoners
693.110	Certificate of Freedom from STDs
693.120	Treatment of Minors
693.130	Control Measures
693.140	

AUTHORITY: Implementing and authorized by the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325] and Sections 2 and 6 of the Department of Public Health Act [20 ILCS 2305/2 and 6].

SOURCE: Adopted at 12 Ill. Reg. 10097, effective May 27, 1988; amended at 15 Ill. Reg. 11686, effective August 15, 1991; emergency amendment at 15 Ill. Reg. 16462, effective October 28, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5921, effective March 30, 1992; emergency amendment at 17 Ill. Reg. 1213, effective January 7, 1993, for a maximum of 150 days; emergency expired June 7, 1993; amended at 17 Ill. Reg. 15909, effective September 20, 1993; amended at 19 Ill. Reg. 1126, effective January 20, 1995; amended at 22 Ill. Reg. 22026, effective December 9, 1998; amended at 25 Ill. Reg. 3916, effective April 1, 2001; amended at 25 Ill. Reg. 14498, effective NOV -1 2001.

Section 693.30 Reporting

- Every physician licensed under the provisions of the Illinois Medical Practice Act shall report each case in which the physician has clinically diagnosed or treated a case of AIDS, HIV infection, syphilis, gonorrhea, chlamydia, chancroid, or ophthalmia neonatorum, or

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received a reportable STD laboratory result as set forth in Section 693.20(b). A hospital may, at the request of the physician of a person who has been admitted to the hospital, submit the physician's report to the appropriate health authority through the identifiers established disease-reporting mechanism. In all cases, the physician is responsible for ensuring that reporting is accomplished.

- 1) The STD case report shall be mailed within seven days after such diagnosis or treatment. The STD laboratory report shall be mailed within seven days after receipt of the laboratory results.
- 2) If the reporting source is located in a county or city governed by a full-time Local Health Authority, the STD report shall be made to that health authority. For syphilis, gonorrhea, chlamydia, chancroid, and ophthalmia neonatorum patients in jurisdictions not covered by a Local Health Authority but by a Designated Agency, the STD reports shall be made to that Designated Agency. In all other cases, the STD report shall be made directly to the Illinois Department of Public Health.
- 3) For cases of AIDS or HIV infection, the STD report shall be made on a form furnished by the Department. For each report of AIDS, a physician shall complete the "Adult AIDS Confidential Case Report", as modified by the Department (or Pediatric AIDS Confidential Case Report, as modified by the Department for children under 13 years), which are forms developed by the Centers for Disease Control and Prevention (CDC), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, OMB No. 0920-0009. For cases of HIV infection, the STD report shall be made on a form furnished by the Department. The STD report shall state the name, address and telephone number of the physician, the date of the report, as well as the following information, as available:

- A) For AIDS:
 - i) The individual's name, Social Security Number, address, telephone number, age, date of birth, age at diagnosis, current status (date of death), race/ethnicity, sex, country of birth, residence at diagnosis, facility where diagnosis of AIDS was established;
 - ii) Patient risk history;
 - iii) Laboratory results of HIV antibody tests, HIV detection tests, or immunologic laboratory tests;
 - iv) Information concerning the presence and method of diagnosis of AIDS indicator disease;
 - v) Each successive AIDS indicator disease (e.g., Pneumocystis carinii pneumonia, Kaposi's sarcoma or esophageal candidiasis), regardless of whether the case is known or thought to have been previously reported in another state or health jurisdiction;
 - vi) For reports submitted by health care facilities, the

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name and telephone number of the individual completing the form, if different from the physician;

- vii) Information concerning treatment services and referrals and, for women, information on both the current pregnancy status and births after 1977, and for prenatal cases, information about birth history;
- viii) Whether the individual has had any invasive procedures performed on him or her and, if so, the types of invasive procedures and the name(s), address(es) and telephone number(s) of the health care provider(s) who performed those invasive procedures;
- ix) Whether the individual is a health care provider, if so, the type of health care provider and whether the individual has performed invasive procedures; and
- x) Whether post-test counseling and/or sex/needle sharing partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.

- B) Prior to July 1, 1999, for HIV infection in cases not clinically diagnosed or treated as AIDS by the reporting physician:
 - i) The individual's city of residence, age, race/ethnicity, sex;
 - ii) The laboratory findings;
 - iii) Risk factors for HIV infection;
 - iv) Whether the individual is known to have previously tested positive for antibodies to HIV;
 - v) Reason for testing; and
 - vi) Whether counseling and/or sex partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.
- C) On or after July 1, 1999, for HIV infection in cases not clinically diagnosed or treated as AIDS by the reporting physician:
 - i) A patient code number derived from demographic information and elements of the individual's name and/or other identifying information, age, date of birth, age at diagnosis, current status (date of death), race/ethnicity, sex, country of birth, residence at diagnosis, facility where diagnosis of HIV was established;
 - ii) Patient risk history;
 - iii) Laboratory results of HIV antibody tests, HIV detection tests, or immunologic laboratory tests;
 - iv) Information concerning the presence and method of diagnosis of AIDS indicator diseases;
 - v) For reports submitted by health care facilities, the name and telephone number of the individual completing

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- the form, if different from the physician;
- vi) Information concerning treatment services and referrals and, for women, information on both the current pregnancy status and births after 1977, and for perinatal cases, information about birth history;
 - vii) Whether the individual has had any invasive procedures performed on him or her and, if so, the types of invasive procedures and the names of the health care providers who performed those invasive procedures;
 - viii) Whether the individual is a health care provider and, if so, the type of health care provider and whether the individual has performed invasive procedures; and
 - ix) Whether post-test counseling and/or sex/needle sharing partner referral has taken place or whether assistance is needed from the Local Health Authority or the Department.
- D) All reporting sources are required to maintain a system permitting the patient code number to be linked to a specific individual for purposes of additional follow-up if necessary.
- E) The Department will monitor HIV case reports to determine the effectiveness of the HIV surveillance system. Beginning on July 1, 1999, the Department will collect data to be continually evaluated beginning on January 1, 2001 to determine whether the following criteria are satisfied:
- i) All elements of the patient identification code are complete in at least 90% of all reported cases;
 - ii) Patient risk information is provided in 90% of case reports and the remaining information in the case report is complete in 85% of the case reports, after epidemiologic follow-up is completed;
 - iii) No more than 5% of cases in the HIV databases are duplicate reports;
 - iv) 95% of providers will be able to link a patient code number to a case report when additional follow-up is necessary; and
 - v) A system to link at least 95% of the patient code numbers for reported cases of HIV infection to the subject of the case report, maintained by at least 95% of providers. For purposes of evaluation, the Department may review but may not copy records held by the reporting source. The evaluation shall not identify by name or other identifying information any provider or subject of a case report.
- F) The Department shall complete its evaluation of the system no later than July 1, 2003. If, at the conclusion of the evaluation, the Department has determined that the criteria described in subsection (a)(3)(E) of this Section

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- have not been met, all subsequently reported cases of HIV infection not clinically diagnosed or treated as AIDS by the reporting physician shall include all of the information required in subsection (a)(3)(C) of this Section, except that the report shall include the test subject's name and the patient code number specified in subsection (a)(3)(C)(i) will not be generated by the provider.
- 4) Syphilis, gonorrhea, chlamydia, chancroid, and ophthalmia neonatorum cases and laboratory reports in cities having a population of 500,000 or more shall be made on a form furnished by the Local Health Authority. In all other cases, the report shall be made on a form furnished by the Department. The report shall state the name, address and telephone number of the physician, the date of the report, as well as the following information, as available:
- A) The individual's name, address, telephone number, age, birthdate, race/ethnicity, sex, marital status, pregnancy status;
 - B) The diagnosis, diagnostic classification, and any laboratory findings;
 - C) The amount and type of treatment, including preventive treatment, that the individual is receiving, has received or will receive, and whether treatment has been completed; and
 - D) The type of treatment facility.
- b) Every laboratory and blood bank, through its Director, shall report each case in which the laboratory or blood bank performed a test for an STD that concluded with a reportable laboratory result.
- 1) The STD laboratory report shall be mailed within seven days after the reportable laboratory test result.
 - 2) If the reporting source is located in a county or city governed by a full-time Local Health Authority, the STD laboratory report shall be made to that health authority. For syphilis, gonorrhea, chlamydia, chancroid, and ophthalmia neonatorum test subjects in jurisdictions not covered by a Local Health Authority but by a Designated Agency, such reports shall be made to that Designated Agency. In all other cases, the STD laboratory report shall be made directly to the Department.
 - 3) For HIV laboratory tests, the report shall be made on a form furnished by the Department. The report shall state the name and address of the laboratory or blood bank, the date of the report, as well as the following information, as available:
 - A) The name, address and telephone number of the physician or other person who submitted the specimen for testing (not applicable to blood banks);
 - B) The individual's patient code number as provided by the physician, age, race/ethnicity, and sex; and
 - C) The date the tests were performed, the laboratory results, and the method employed.

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- 4) For CD4+ Lymphocyte counts less than 200 CD4+ cells per microliter or less than 14 percent of total lymphocytes ~~lymphocytes~~, the report shall be made on a form furnished by the Department. The report shall state the name and address of the laboratory or blood bank, the date of the report, as well as the following information, as available:
 - A) The name, address and telephone number of the physician or other person who submitted the specimen for testing (not applicable to blood banks);
 - B) The individual's name, address, telephone number, age, race/ethnicity, sex, as provided by the physician or other person who submitted the specimen for testing by a laboratory; and
 - C) The date the tests were performed, the laboratory results, and the method employed.
- 5) Syphilis, gonorrhea, chlamydia, chancroid and ophthalmia neonatorum laboratory reports in cities having a population of 500,000 or more shall be made on a form furnished by the Local Health Authority. In all other cases, the report shall be made on a form furnished by the Department. The report shall state the name and address of the laboratory or blood bank, the date of the report, as well as the following information, as available:
 - A) The individual's name, address, telephone number, age, race/ethnicity, sex, marital status, or patient code number as provided by the physician or other person who submitted the specimen for testing by a laboratory;
 - B) The name, address and telephone number of the physician or other person who submitted the specimen for testing (not applicable to blood banks); and
 - C) The date the test was performed, the laboratory results, and the method employed.
- 6) In addition to the above reporting requirements:
 - A) If the subject of the test is under 12 years of age, any reactive or positive test results shall be reported to the Department by telephone immediately or as soon as Department business hours permit at 888-375-9613 for HIV/AIDS test results and 217-782-2747 for all other STD test results.
 - B) If any culture that is positive for gonorrhea is determined to be resistant to antibiotics, the test results shall be reported by telephone immediately, or as soon as business hours permit, to the Local Health Authority, Designated Agency or the Department, as appropriate.
 - C) Every laboratory and blood bank shall report the total number of tests performed for STDs each week. This report shall be made to the Local Health Authority, Designated Agency or the Department, as appropriate.
- c) Physicians are not required to file HIV case reports for:
 - 1) Patients known to reside outside of Illinois;

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- 2) Persons tested at IDPH designated anonymous test sites; or
- 3) Participants in research projects approved by an institutional review board when the research is not primarily intended to provide medical treatment to participants and is conducted under the following conditions:
 - A) all personal identifiers are removed from the specimen before testing;
 - B) the specimen cannot be linked to the individual from whom the specimen was collected; or
 - C) positive HIV results are due to vaccine administration.
- d) All persons required to report pursuant to this Part shall maintain the strict confidentiality of all information and records relating to known or suspected cases of STDs in accordance with Section 693.100 and 77 Ill. Adm. Code 697.140.
- e) For each report of AIDS that it receives, pursuant to the provisions of this Section, the Local Health Authority shall forward a copy of the report to the Department's AIDS Registry System, within seven days after receiving the report (see Section 697.210 of the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697)). The Local Health Authority shall assure the completeness of the report form. The Local Health Authority shall record the reporting source on the case report form, as available.
 - f) A Local Health Authority shall forward to the Department a copy of each HIV report that it receives pursuant to the provisions of this Section, within seven days after receiving the report.
 - g) A Local Health Authority or Designated Agency shall submit to the Department, on forms supplied by the Department, summary information on the reportable laboratory results for syphilis, gonorrhea, chlamydia, chancroid, and ophthalmia neonatorum that it receives pursuant to the provisions of this Section, within seven days after receiving such results.
 - h) A Local Health Authority or Designated Agency that receives a syphilis laboratory report with a patient code number shall contact the test subject's physician for information identifying that individual, within 24 hours after receiving the report. The Department shall assume this responsibility within jurisdictions not covered by a Local Health Authority or Designated Agency.
 - i) A Local Health Authority that receives an HIV laboratory report from a physician, laboratory or blood bank for an individual age three through 21 shall contact the physician listed in the report to obtain the individual's name and address, in order to comply with Section 697.400 of the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697). The Department shall assume this responsibility within jurisdictions not covered by a Local Health Authority. The physician shall provide this information to the Local Health Authority or the Department unless the test subject is not enrolled in a public or private primary or secondary school. The physician shall contact the Local Health Authority or the Department if the physician learns that

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the test subject has enrolled in school at any subsequent date.

(Source: Amended at 25 Ill. Reg. 14497-, effective
NOV - 1 2001)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Distribution of Medical Student Scholarship Payback Funds

2) Code Citation: 77 Ill. Adm. Code 594

3) Section Numbers: Adopted Action:

594.10 Amendment
594.20 Amendment
594.30 Amendment
594.100 Amendment
594.200 Amendment
594.210 Amendment
594.220 Amendment
594.230 Amendment
594.240 Amendment
594.300 Amendment
594.400 Amendment

4) Statutory Authority: Family Practice Residency Act [110 ILCS 935], Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310-200 and 2310-205], and Section 254 of the National Health Service Corps Loan Repayment Program, 42 USC 254.

5) Effective Date of Amendments: November 1, 2001

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Incorporations by Reference? Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Rulemaking Published in the Illinois Register: May 25, 2001 at 25 Ill. Reg. 6623

10) Has JCAR Issued a Statement of Objection to this Rulemaking? No

11) Differences Between Proposal and Final Version: In Section 594.240(b), changed text from "selected for loan repayment shall practice for a minimum of 2 two years in a designated shortage area on a full-time basis. In" to "selected for loan repayment shall practice on a full-time basis for a minimum of 2 two years in a designated shortage area for a medically underserved population on-a-full-time-basis."

In addition, style and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

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12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee?
Yes

13) Will the Rulemaking Replace any Emergency Rules Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) A Complete Description of the Subjects and Issues Involved: The rulemaking amends the educational loan payback provisions according to repayment contract of the federal Department of Health and Human Services (DHHS) and includes dentists and psychiatrists in the program according to DHHS. Makes corrective technical changes.

16) Information and Questions Regarding these Adopted Amendments shall be directed to:

Peggy Snyder, Rules Coordinator
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761-0001
(217) 782-2043
rules@idph.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER G: GRANTS TO INCREASE ACCESS TO PRIMARY HEALTH CARE AND SCHOLARSHIPS FOR HEALTH PROFESSIONAL STUDENTS

PART 594

DISTRIBUTION OF MEDICAL STUDENT SCHOLARSHIP PAYBACK FUNDS

SUBPART A: GENERAL PROVISIONS

Section
594.10
594.20
594.30
594.40

Applicability
Definitions
Incorporated or Referenced Materials
Administrative Hearings

SUBPART B: CAPITAL FUND DEVELOPMENT IN COOPERATION
WITH ILLINOIS DEVELOPMENT FINANCE AUTHORITY

Section
594.100
594.110
594.120
594.130
594.140
594.150

Availability of Funds
Responsibilities of the Illinois Development Finance Authority
Responsibilities of the Department and the Center for Rural Health
Eligibility to Receive Loans From the Capital Funds
Application for Loans
Selection of Loan Recipients

SUBPART C: SUPPORT FOR HEALTH PROFESSIONALS
EDUCATIONAL LOAN REPAYMENT GRANTS

Section
594.200
594.210
594.220
594.230
594.240

Availability of Loan Repayment Funds
Limitations on Use of Loan Repayment Funds
Eligibility for Application
Selection Criteria for Distribution of Loan Repayment Funds
Terms of Performance

SUBPART D: GRANTS TO EXPAND ACCESS TO COMPREHENSIVE PRIMARY
HEALTH CARE IN MEDICALLY UNDERSERVED AREAS OF ILLINOIS

Section
594.300

Availability of Grant Funds

SUBPART E: GRANTS TO SUPPORT PROJECTS THAT WHICH WILL INCREASE THE
SUPPLY OF FAMILY PHYSICIANS FOR ILLINOIS' UNDERSERVED AREAS

Section
594.400

Eligibility for Grants

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

594.410 Limitations on Use of Grant Funds
 594.420 Project Requirements
 594.430 Application for Grants
 594.440 Selection Criteria

AUTHORITY: Implementing and authorized by Section 10 of the Family Practice Residency Act [110 ILCS 935/10] and Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-20 and 2310-205].

SOURCE: Adopted at 19 Ill. Reg. 2955, effective March 1, 1995; amended at 25 Ill. Reg. 14507, effective NOV - 1 2001.

SUBPART A: GENERAL PROVISIONS

Section 594.10 Applicability

- a) This Part implements Section 10 of the Family Practice Residency ~~is in response to an~~ Act [110 ILCS 935/10] and Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-200 and 2310-205]. These statutory provisions are designed to increase the availability of health care professionals ~~primary care physicians, especially family physicians~~ to meet health care needs of citizens living in underserved areas. Monies made available are to be used to expand access to primary care services. The provisions of this Part ~~rulemaking~~ are organized into five Subparts. Subpart A includes general provisions, such as definitions and administrative hearing rules, that ~~which~~ apply to all Sections of the Part.
- b) Subpart B includes provisions for creation of resource enhancement funds in cooperation with entities such as the Illinois Development Finance Authority or any others to be authorized. These provisions set forth the proposed amount of funds to be transferred to the Illinois Development Finance Authority, and establishes performance requirements for both the Authority and the Department.
- c) Subpart C includes provisions for distribution of funds to create a health professional education loan repayment program, including the modifications necessary when federal grant funds are available.
- d) Subpart D includes provisions for distribution of monies in the Community Health Center Care Fund to support activities detailed in Subparts B and D of the Illinois Rural Health Code (77 Ill. Adm. Code 5967-~~proposed~~) and to support educational enhancement activities to increase the numbers and abilities of family physicians able to meet the primary health care needs in Illinois' underserved areas.
- e) Subpart E establishes program requirements to award grants for activities that ~~which~~ will increase access to primary health care for underserved populations and will enhance educational opportunities for family physicians.

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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

Section 594.20 Definitions

"Act" means ~~Section 10 of~~ the Illinois Family Practice Residency Act ~~{110 ILCS 935/10}~~ ~~Rev. Stat. 1997, ch. 144, par. 1460~~ [110 ILCS 935/10].

"Advanced practice nurse" means a nurse licensed under Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Authority" means the Illinois Development Finance Authority.

"Community Based Organization" means a locally organized and recognized group of individuals whose goals include efforts to maintain or increase the availability or accessibility of necessary health care for the citizens of the community.

"Community health center ~~Health Center~~" means community/migrant health centers or health care for the homeless projects supported under Section 254b, 254c or 256 Sections 3297-330-~~or~~-340 of the federal Public Health Service Act (42 USC 254b, 254c and 256) ~~respectively~~ or federally qualified health center look-alikes, as designated by the U.S. Public Health Service.

"Center" means the Center for Rural Health of the Illinois Department of Public Health.

"Dentist" means a person licensed to practice dentistry under the Illinois Dental Practice Act [225 ILCS 25].

"Department" means the Illinois Department of Public Health.

"Downstate" means those Illinois counties other than Cook, Lake, McHenry, DuPage, Will and Kane.

"Family practice residency program" means a training program meeting the requirements of the Accreditation Council for Graduate Medical Education of the American Medical Association or the Committee on Postdoctoral Training of the American Osteopathic Association.

"Full time practice" means maintaining office hours for patient care that ~~which~~ equal or exceed the mean number of office hours per week reported by physicians, by specialty, and published in the American Medical Association's "Socioeconomic Characteristics of Medical Practice, 1992." Physician assistants and advanced practice nurses ~~Midlevel providers~~ will meet the same minimum time requirements as their supervising or collaborating physician.

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"Fund" means the Community Health Center Care Fund.

"Local health department" means a county, multi-county, municipal or district public health agency recognized by the Department.

"Medically underserved population" means individuals who reside in a U.S. Department of Health and Human Services designated health professional shortage area or medically underserved area; or who are designated a medically underserved population by the U.S. Department of Health and Human Services; or who reside in an area designated by the Department as underserved.

"Mid-level providers" include health professionals who have completed specialized training and who meet the requirements of nationally recognized health professional organizations granting certification to nurse practitioners, certified nurse-midwives, and physician assistants.

"Physician assistant" means an individual licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95].

"Primary care" means health care that encompasses prevention services, basic diagnostic and treatment services, and support services such as laboratory, radiologic, transportation, and pharmacy. Primary care is comprehensive in nature and not organ or problem specific; is oriented toward the longitudinal care of the patient; and includes responsibility for coordination of other health and social services as they relate to the patients' needs.

"Primary care physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 (Ill. Rev. Stat., 1991, ch. 117, par. 4400-1 et seq.) [225 ILCS 60] with a specialty in family practice, general internal medicine, obstetrics/gynecology, general pediatrics, or combined internal medicine/pediatrics and as defined by recognized standards for professional medical practices.

"Psychiatrist" means a physician licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60] who has successfully completed an accredited residency program in psychiatry.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area, or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less, or a community located within a Metropolitan Statistical Area but having a population of 2500 or less.

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(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

Section 594.30 Incorporated or Referenced Materials

The following materials are incorporated or referenced in this Part:

- a) Illinois Statutes and Rules Referenced
 - 1) Illinois Family Practice Residency Act (Ill. Rev. Stat., 1991, ch. 144, par. 1460) [110 ILCS 935].
 - 2) Illinois Rural/Downstate Health Act (Ill. Rev. Stat., 1991, ch. 117, par. 8051 et seq.) [410 ILCS 65].
 - 3) Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Illinois Civil Administrative Code of Illinois [20 ILCS 2310/2310-200 and 2310-205] (Ill. Rev. Stat., 1991, ch. 127, par. 55-53 and 55-57) [20 ILCS 2310/55-53 and 55-57].
 - 4) Public Act 88-035, effective January 26, 1994 (see Section 10 of the Family Practice Residency Act).
 - 5) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
 - 6) Family Practice Residency Code (77 Ill. Adm. Code 590).
 - 7) Illinois Rural Health Code (77 Ill. Adm. Code 596).
- b) Federal Statutes Referenced Incorporated By Reference
 - 1) Designation of Health Professional Shortage Areas, Section 332 of the Public Health Service Act (42 USC 856-254e (1991)).
 - 2) Designation of Medically Underserved Areas, Section 330 (b)(3) of the Public Health Service Act (42 USC 856-254c (b)(3) (1991)).
- c) All incorporations by reference of standards of nationally recognized organizations refer to standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

SUBPART B: CAPITAL FUND DEVELOPMENT IN COOPERATION WITH
ILLINOIS DEVELOPMENT FINANCE AUTHORITY

Section 594.100 Availability of Funds

From monies deposited into the Community Health Center Care Fund since January 1, 1992, a sum not to exceed \$300,000 will be transferred to the Authority, pursuant to Public Act 88-0535, effective January 26, 1994 (see Section 10 of the Family Practice Residency Act). The transfer will be a one-time, lump sum payment.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

DEPARTMENT OF PUBLIC HEALTH

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SUBPART C: SUPPORT FOR HEALTH PROFESSIONALS
EDUCATIONAL LOAN REPAYMENT GRANTS**Section 594.200 Availability of Loan Repayment Funds**

- a) From monies deposited into the Fund, an annual sum of at least \$150,000 shall be used for a health professional educational loan repayment program beginning in State Fiscal Year 1995.
- b) These monies shall be used by the Center to match federal dollars awarded through the National Health Service Corps State Loan Repayment Program Grant, when available.
- c) If the federal grant dollars are not available, the monies made available from the Fund shall continue to be used to support an educational loan repayment program for health professionals.
- d) Funds used to repay a health professionals' educational loans shall consist of at most 75 percent State and/or federal funds and at least 25 percent local funds from nonstate and nonfederal sources.

1) When National Health Service Corps State Loan Repayment Grant Program funds are available and used, the local payment will be made into the Rural/Downstate Health Access Fund.

2) When only State and Community Health Center Care Fund monies are used, the local contribution may be made directly to the health care provider recruited through this program. The local entity assuming responsibility for at least the 25 percent of the payment shall enter into a written agreement with the Department. The agreement contains additional terms and conditions that which ensure compliance with this Part, the laws of the State of Illinois, and enforcement of the agreement.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV-1-2001)

Section 594.210 Limitations on Use of Loan Repayment Funds

- a) Funds shall be used for the repayment of educational loans of primary care physicians, dentists, psychiatrists, physician assistants, and advanced practice nurses mid-level providers who agree to serve in designated shortage areas.
- b) Payments may be used for the principal principle, interest and related expenses of government and commercial loans received by the individual and used for tuition expenses, and all other reasonable educational expenses incurred by the individual. The loans must have been incurred in pursuit of the recipient's professional education and may include undergraduate and graduate educational programs.
- c) Applicants who agree to practice at a Department approved site in an underserved area for 2 two years are eligible for up to \$25,000 annually; however, if the total amount of the applicant's qualifying educational loans is less than \$50,000, the applicant they will

DEPARTMENT OF PUBLIC HEALTH

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receive one-half of the total qualifying educational loan amount amounts annually.

- d) Applicants who agree to practice in an underserved area for 3 three years are eligible for up to \$25,000 for each of the first 2 two years and up to \$35,000 for the third year of service; however, if the balance of the applicant's qualifying educational loans after the first 2 two years of service is less than \$35,000, however, the applicant they will receive payment for the remaining qualifying educational loans in the third year.
- e) Applicants who agree to practice in an underserved area for 4 four years are eligible for up to \$25,000 annually for the first and second years of service and \$35,000 annually for the third and fourth years of service. If However, if the balance of the applicant's qualifying educational loans after the first 2 two years of service is less than \$70,000, however, the applicant they will receive one-half of the remaining qualifying educational loans annually in the third and fourth years.
- f) An additional amount of not more than equal to 39 percent of the total amount of loan repayments made for each tax year in which these such payments were made may shall be paid to the loan repayment program recipient in those years when National Health Service Corps State Loan Repayment Grant Program funds are available.
- g) Funds may not be used to monetarily repay any a practice obligation resulting from educational loans or scholarships, whether from Illinois-based institutions or organizations or governments, or those in other states.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV-1-2001)

Section 594.220 Eligibility for Application

- a) Any Illinois primary care licensed physician, psychiatrist, dentist, physician assistant or advanced practice nurse mid-level provider, or one who can be expected to be licensed in Illinois and who intends to practice in a designated shortage area of Illinois, may apply for educational loan repayment.
- b) Applicants shall not have been in practice in a designated shortage area for longer than six months prior to the beginning of the next application period for educational loan repayment.
- c) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's degree or diploma. This required such documentation of indebtedness shall include a photocopy or original copy of promissory notes or other evidence of indebtedness with disclosure of lending institution or agency, loan amount, loan period, interest rate, and any amounts repaid prior to date of application.

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c) Applicants shall be willing to practice full-time in a designated shortage areas ~~areas~~ in Illinois.

d) Applicants not yet in practice, or not yet in practice in a designated shortage areas ~~areas~~, shall document intent to do so by written confirmation from a community-based organization, from a nonprofit or governmental agency, or from other health care providers located within the designated shortage area. If the written confirmation is from a nonprofit or governmental agency, then the agency must agree to pay at least one-quarter of the applicant's outstanding principal for each year that the agency participates in the educational loan repayment program.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

Section 594.230 Selection Criteria for Distribution of Loan Repayment Funds

- One-third of the available funds will be used for educational loan repayment of physician assistants and advanced practice nurses ~~mid-level providers~~, if applications are sufficient in number to warrant the amount.
- When numbers of applications are sufficient to support a geographical separation into urban and rural groupings, an equal number of applicants will be selected from each of the groups.
- When numbers of applications are sufficient, an equal number of applicants shall be selected from Chicago and from the remaining urban areas of the State.
- Within the geographical considerations, preference shall be given to applications from providers who will be working at sites that are serving a large minority population, in rural areas with ongoing problems recruiting providers, and migrant and community health centers.
- Preference shall be given to applications from those providers who have been recruited by, or are actively involved with, a community-based organization or group having as one of its goals the improvement or maintenance of the availability and accessibility of primary health care in its area.
- When all other selection criteria are essentially equal among a group of applicants, preference will be given to the applicant with the greater educational indebtedness.
- Applications shall have the following priority classifications applied to the location and other characteristics of the practice:
 - Higher population-to-primary care physician ratio, new provider to area, and endorsement by community-based group or organization.
 - Applicant in practice 6 ~~six~~ months or less, higher ratio of population-to-primary care physician, and endorsement by community-based group or organization.

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- Applicant new to area or in practice 6 ~~six~~ months or less, but no endorsement by community-based group or organization.
- Applications shall be accepted between July 1 and September 30 and considered for funding according to the criteria described in this Section ~~above~~. If all funds are not expended, subsequent application cycles will occur on a quarterly basis until all funds are obligated.
- Applicants who have previously received funding will be given priority consideration for continued participation in the program.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

Section 594.240 Terms of Performance

- Each primary care physician, dentist, psychiatrist, physician assistant, or advanced practice nurse ~~mid-level provider~~ selected for educational loan repayment shall sign a written contract with the Department. The contract may contain additional terms and conditions that ~~which~~ ensure compliance with the laws of the State of Illinois and enforcement of the contract. In fiscal years when National Health Service Corps State Loan Repayment Grant funds are awarded to the State, federal requirements shall be included in the contract.
- Primary care physicians, dentists, psychiatrists, physician assistants, and advanced practice nurses ~~mid-level providers~~ selected for loan repayment shall practice on a full-time basis for a minimum of 2 ~~two~~ years in a designated shortage area for a medically underserved population ~~on-a-full-time-basis~~. In fiscal years when National Health Service Corps State Loan Repayment Grant funds are awarded to the State for support of this program, loan repayment recipients must practice in federally designated health professional shortage areas. In years when no federal funds from the National Health Service Corps State Loan Repayment Grant are available, the practice site may be located in a shortage area as designated by the Department.
- Loan repayment recipients who ~~want to move~~ their practice from the location described in the recipient's original application shall request prior approval from the Department before relocating. The Department must ensure that the recipient relocates ~~relocate to~~ another designated shortage area and that the health care provider in that area agrees to pay one-quarter of the recipient's outstanding principal each year that the provider participates in the program ~~which qualifies for the same or a higher priority ranking--Relocating to-a-lower-priority-area-will-result-in-termination-of-the-loan repayment-contract--The-recipient-will-be-eligible-to-reapply-for-the-loan-repayment-program-and-be-considered-among-all-other-applicants.~~
- Payments to recipients will be made by the Department on a quarterly ~~semiannual~~ basis. The recipient is responsible for payments to the appropriate financial institutions holding the recipients' educational

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- loans.
- e) Loan repayment recipients who first agree to the minimum 2 ~~two~~ years of service and who, after completing those years, apply for additional years of obligated service with loan repayment shall document that their loan balances as reported at the time of their first application to the program have been decreased at least by the amount paid to them by the Department during the first obligated service period. Documentation of loan balances shall be provided by the lending institution.
- f) Misrepresentation of the facts presented in the application or failure to meet the practice terms will be considered a breach of contract.
- g) Loan repayment recipients who agree to serve for 2 ~~two~~ years, but ~~and~~ ~~for any reason~~ fail to complete the period of obligated service, shall be liable to repay an amount equal to the sum of:
- 1) the total amount paid to the recipient and
 - 2) ~~an amount equal to~~ the number of months of the unserved obligation multiplied by \$1000.
- h) Loan repayment recipients who agree to serve for more than 2 ~~two~~ years, but ~~and~~ ~~for any reason~~ fail to complete at least 2 ~~two~~ years of the period of obligated service, shall be liable to repay the ~~sum~~ ~~amount as set forth in subsection (g) above.~~
- i) Loan repayment recipients who agree to serve for more than 2 ~~two~~ years, but ~~and~~ ~~for any reason~~ fail to complete the period of obligated service after completing at least 2 ~~two~~ years of obligated service, shall be liable to repay an amount equal to the sum of:
- 1) the total amounts paid to the recipient for any period of obligated service not served and
 - 2) \$10,000, if the recipient fails to give the Department at least one year prior notice of his or her intent to breach the obligation.
- j) Loan repayment recipients who do not complete at least one year of service shall be liable to repay an amount equal to the sum of:
- 1) the total amount paid to the recipient and
 - 2) ~~an amount equal to~~ the total number of months in the full period of obligated service multiplied by \$1000.
- k) ~~Obligations in fiscal years--when--only--State--and--local--funds--are available--for--support--of--this--program--all--obligations of the loan repayment recipient shall be excused in the event the recipient dies or becomes totally and permanently disabled. For purposes of this subsection, disability means a physical or mental disease, impairment or condition that which prevents practice in the recipients professional field with or without reasonable accommodation. Proof of disability shall be a declaration from the Social Security Administration, Illinois Industrial Commission, Department of Defense, or an insurer authorized to transact business in the State of Illinois who is an insurer of the recipient providing disability insurance coverage to the recipient.~~
- 1) All amounts owed by the loan repayment recipient recipients shall be

DEPARTMENT OF PUBLIC HEALTH

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paid within one year after of the date the Department determines that the recipient is in breach of the program obligations.

- m) In the event the primary care physician, psychiatrist, dentist, physician assistant, or advanced practice nurse ~~midlevel-provider~~ does not repay any funds owed to the Department, the Department may refer the matter to the Attorney General or to a collection agency.

(Source: Amended at 25 Ill. Reg. 14518.10, effective NOV - 1 2001)

SUBPART D: GRANTS TO EXPAND ACCESS TO COMPREHENSIVE
PRIMARY HEALTH CARE IN MEDICALLY UNDERSERVED AREAS OF ILLINOIS

Section 594.300 Availability of Grant Funds

- a) In State fiscal year 1995, the monies in the Fund, less the lump sum transfer to the Illinois Development Finance Authority, and less the \$150,000 allocation for the educational loan repayment program, shall be distributed in equal amounts to support the following programs:
- 1) Grants to Develop Community Based Primary Care Centers (see the Illinois Rural Health Code, 77 Ill. Adm. Code 596, Subpart B);
 - 2) Grants to Support Expansion of Community Health Centers' Programs (see the Illinois Rural Health Code, 77 Ill. Adm. Code 596, Subpart D);
 - 3) Grants to support development, maintenance and expansion of educational experiences that which will result in an increased supply of family physicians for Illinois' rural and its underserved areas (see Subpart E of this Part).
- b) In State fiscal year 1996 and all subsequent years, the monies in the fund as of June 30 of the prior fiscal year, less the \$150,000 allocation for the educational loan repayment program, shall be distributed in equal amounts to support the programs as proposed in subsection (a) of this Section.
- c) Monies allocated to each activity but not expended in a fiscal year shall be added to the allocation for the activity in the subsequent fiscal year.

(Source: Amended at 25 Ill. Reg. 14518.10, effective NOV - 1 2001)

SUBPART E: GRANTS TO SUPPORT PROJECTS THAT WHICH WILL INCREASE
THE SUPPLY OF FAMILY PHYSICIANS FOR ILLINOIS' UNDERSERVED AREAS

Section 594.400 Eligibility for Grants

The ~~his~~ grant program in this Subpart E is designed to improve the ability of medical schools and family practice residencies both to increase the numbers of family physicians and to better prepare family physicians for practice in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

underserved areas of the State.

a) The following applicants are eligible to apply for grants through this

Subpart:

- 1) Any any accredited family practice residency program located in Illinois.⁷
 - 2) Any any school of medicine or osteopathy in Illinois with a department of family medicine or family practice.⁷
 - 3) Any local health department departments serving an underserved population.⁷
 - 4) Any non-profit, community-based organization organizations or facility facilities, including, but not limited to, a community health center centers.
- b) Each application must be jointly submitted by at least 2 two eligible applicants, with one applicant being a residency program or a medical or osteopathic school.

(Source: Amended at 25 Ill. Reg. 14507, effective NOV - 1 2001)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Illinois Racing Board
- 2) Code Citation: 11 Ill. Adm. Code 200
- 3) Section Number: Adopted Action:
200.10 New Section
200.20 New Section
200.30 New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rules: November 1, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 25 Ill. Reg. 7855 - 6/29/01
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter? Yes
- 13) Will these amendments replace emergency amendments currently in effect?
No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of this rulemaking: This rulemaking re-organizes the Board's rules found in Part 1301.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Mickey Ezzo, Illinois Racing Board
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5017

The full text of the adopted rules begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 200

ILLINOIS RACING BOARD

Section

200.10 All Races Governed by Rules and Regulations
200.20 Full Access to Track
200.30 Inspection of Track

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 25 Ill. Reg. 14521, effective NOV -1 2001.

Section 200.10 All Races Governed by Rules and Regulations

All races shall be conducted only under the Rules and Regulations of the Illinois Racing Board.

Section 200.20 Full Access to Track

The Board and its employees shall at all times have full access to the course, plant, and grounds of all racetracks and wagering locations in the State of Illinois.

Section 200.30 Inspection of Track

The Board shall have the right to authorize a person or persons to enter any place within the track enclosure, or other places where horses are kept that are eligible to race at the current meetings, to inspect and examine the personal effects or property of every licensee within those places.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Airport Land Loan Program
- 2) Code Citation: 92 Ill. Adm. Code 15
- 3) Section Numbers: Adopted Action:
15.70 Amend
- 4) Statutory Authority: Implementing and authorized by Section 34b of the Illinois Aeronautics Act [5 620 ILCS 5/34b].
- 5) Effective Date of Amendments: October 27, 2001
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 20, 2001, 25 Ill. Reg. 8989
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version:
At Section 15.70 (g)(1), the Department is deleting the following parenthetical:
"(information regarding the list of approved appraisers can be obtained by contacting the land acquisition section of the Division of Aeronautics at (217)785-8514)".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: By this Notice, the Department is clarifying that any appraiser with a certified general real estate appraiser designation from the State of Illinois will be allowed to appraise properties rather than just those included on a Department list.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Mr. James V. Bildilli
Chief, Bureau of Airport Engineering
Illinois Department of Transportation
Division of Aeronautics
#1 Langhorne Bond Drive
Springfield, Illinois 62707-8415
(217) 785-8514

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 15
AIRPORT LAND LOAN PROGRAM

Section	Purpose
15.10	Purpose
15.20	Definitions
15.30	Airport Eligibility
15.40	Eligible Property
15.50	Application Procedure
15.60	Evaluating and Prioritizing Loan Applications
15.70	Conditions of Loan
15.80	Repayment Requirements
15.90	Default

AUTHORITY: Implementing and authorized by Section 34b of the Illinois Aeronautics Act [620 ILCS 5/34b].

SOURCE: Adopted at 25 Ill. Reg. 5643, effective April 4, 2001; amended at 25 Ill. Reg. 14523, effective 06/27/2001.

Section 15.70 Conditions of Loan

Loans under this Part may only be issued pursuant to a binding, written agreement that contains the following conditions and requirements.

- a) The annual rate of interest shall be the lesser of either 2 percent below the Prime Rate charged by banks, as published by the Federal Reserve Board, in effect at the time the Department approves the loan, or a rate determined by the Department, after consultation with the Bureau of the Budget, that will not adversely affect the tax-exempt status of interest on the bonds of the State issued in whole or in part to make deposits into the Airport Land Loan Revolving Fund, nor diminish the benefit to the State of the tax-exempt status of the interest on such bonds. In no event shall less than 2 percent be charged. (Section 34b(b)(1) of the Act)
- b) The term of any loan shall not exceed five years, but it may be for less by mutual agreement. (Section 34b(b)(2) of the Act)
- c) The loan shall be secured with the property purchased, in whole or in part, with the loan. The property shall be collateral for the loan. The Owner shall assign a first priority interest in the property to the State and shall cooperate with the Department to record the Department's interest in the property. (Section 34b(b)(5) of the Act)
- d) No funds may be transferred to an Owner under this Part until the Department's interest in the property is secured as outlined in subsection (c) of this Section.

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- e) If federal reimbursement will be requested for the real estate interest purchased with a loan granted under this Part, the real estate acquisition process must comply with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended (the Uniform Act) (42 USC 4601 et seq.). All real estate acquisition costs eligible under the Uniform Act may be paid with money lent under this Part; however, the amount of the loan cannot exceed fair market value of the property, as determined by the Department.
- f) If any or all of the interest in the property is transferred (see Section 15.80(e)), the Owner and the Department shall retain an avigation easement in the transferred property interest that meets the requirements of the Department. (See 92 Ill. Adm. Code 14 and the FAA Policy and Procedures Memorandum 5190.6, Appendix 3, June 14, 1994.)
- g) If a loan application is accepted, the Owner must do, and bear the cost of, the following:
- 1) provide an appraisal of the property by an appraiser currently licensed as a certified general real estate appraiser with the State of Illinois listed--on-the-Department's-list-of-approved appraisers--(information-regarding-the-list-of-approved-appraisers can-be-obtained-by-contacting-the-land-acquisition-section-of-the Division-of-Aeronautics-at-(217)-785-8514);
 - 2) secure a title insurance policy for the purchase price of the parcel that is the subject of the loan; and
 - 3) file the Notice of Lien with the county recorder for the county in which the subject property is located.

Source: Amended at 25 Ill. Reg. 14523, effective 01/27/2001)

TREASURER

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois
- 2) Code Citation: 74 Ill. Adm. Code 740
- 3) Section Numbers: Adopted Action:
740.5 Amendment
740.20 Amendment
740.30 Amendment
- 4) Statutory Authority: Section 17 of the State Treasurer Act (15 ILCS 505/17)
- 5) Effective Date of Amendments: October 23, 2001
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporation by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: June 29, 2001 25 Ill. Reg. 7882
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The final version incorporates recommendations from JCAR which clarifies terms in the Definition section of the Rule.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The adopted amendments clarify the two investment funds that make up the Illinois Public Treasurer's Investment Pool, the Money Market Fund and the Prime Fund. It also requires that expenses exceeding the administrative projection be considered surplus and distributed to participants.
- 16) Information and questions regarding these adopted amendments may be directed to:

TREASURER

NOTICE OF ADOPTED AMENDMENTS

Sisavanh Baccam
Office of the Illinois State Treasurer
100 West Randolph, Suite 15-600
Chicago IL 60601
(312) 814-2984

The full text of the adopted amendments begin on the next page:

TREASURER

NOTICE OF ADOPTED AMENDMENTS

TITLE 74: PUBLIC FINANCE
CHAPTER V: TREASURER

PART 740

ILLINOIS PUBLIC TREASURERS' INVESTMENT POOL FOR PUBLIC
TREASURERS IN THE STATE OF ILLINOIS

Section

740.5 Definitions
740.10 Eligibility Requirements
740.20 Participation Requirements
740.30 Custodial Account

AUTHORITY: Authorized by and implementing Section 17 of the State Treasurer Act [15 ILCS 505/17].

SOURCE: Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois, effective December 29, 1977; codified at 5 Ill. Reg. 11090; amended at 17 Ill. Reg. 6663, effective April 19, 1993; amended at 25 Ill. Reg. 14527, effective 01/23/2001.

Section 740.5 Definitions

"Administrator and Fiscal Agent" The Treasurer of the State of Illinois or designee.

"Application Form" The form prepared by the administrator providing all required pertinent information to be filed by the participant prior to the deposit of any public funds in IPTIP.

"Custodian" Institution appointed by the Treasurer responsible for accounting and trust services for IPTIP.

"Custodial Accounts" Accounts established by a public agency to hold and not invest public funds.

~~"Fund"--One--of--the--investment--funds--available-to-participants-who invest-in-IPTIP.~~

"IPTIP" Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois.

~~"Money Market Fund" A liquid fund, available for Participants to invest public funds without a minimum deposit period, which offers a host of account services such as free checking, free wire transfers, direct deposit of Illinois payments and many others.~~

"Participant" Governmental officials who on behalf of units of local

TREASURER

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government or other public agencies file an application and deposit public funds in IPTIP.

"Prime Fund" A fund available for Participants to invest public funds which must be on deposit for a minimum of 30 days. A notice of withdrawal must be issued a minimum of 7 days before withdrawal.

"Public Agency" In the State of Illinois, the various counties, townships, cities, villages, school districts, special road districts, public water supply districts, fire protection districts, drainage districts, levy districts, sewer districts, housing authorities, the Illinois Bank Examiners Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, specifically including any and all agencies of the State and any and all pension funds duly created and constituted under Illinois law, now or hereafter created, whether or not herein specifically mentioned.

"Public Funds" Current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

"Treasurer" The duly elected Treasurer of the State of Illinois.

(Source: Amended at 25 Ill. Reg. 14527, effective OCI 23 2001)

Section 740.20 Participation Requirements

a) Any funds on deposit with IPTIP's Money Market Fund ~~IPTIP~~ may be withdrawn if a withdrawal notification is received by the ~~custodian~~ ~~administrator~~ by 11:00 a.m. on the day on which the funds are to be withdrawn. If the withdrawal notification is received after 11:00 a.m., the funds must ~~will~~ be available no later than the next business day. The administrator shall require that funds on deposit with IPTIP's Prime Fund be deposited for a minimum of 30 days and shall require a seven-day notice of withdrawal of funds from the Prime Fund. The administrator may assess penalties if the requirements are not met.

b) Interest income will be computed daily, paid monthly and reinvested in the participant's account or distributed to the participant. Cash and cash or wired funds received by 11:00 a.m. on any business day begin earning interest on that day. Checks representing good funds begin earning interest if received before 11:00 a.m. on that day. Checks representing good funds that are received after 11:00 a.m. may not begin earning interest until ~~or--on~~ the next business day after receipt. ~~Income will be computed--daily--and--reinvested--in--full--or--fractional--units--of--the--pool.~~

TREASURER

NOTICE OF ADOPTED AMENDMENTS

c) Administrative fees will be charged to the participants. Such administrative fees will be determined by the State Treasurer and paid from earnings of IPTIP, and interest earnings in excess of such expenses shall be credited or paid to participants in a manner that equitably reflects the differing amounts of their respective investments in IPTIP and the differing periods of time for which such amounts were in the custody of IPTIP ~~for--from--time--to--time~~ when such surplus exceeds the projected administrative expenses for the following year ~~may--be--reasonably--determined--and--declared--to--the~~ ~~custodians--of--public--funds--participating--in--IPTIP--in--a--manner--which~~ ~~equitably--reflects--the--differing--amounts--of--their--respective~~ ~~investments--in--IPTIP--and--the--differing--periods--of--time--for--which--such~~ ~~amounts--were--in--the--custody--of--IPTIP.~~ In determining the administrative fee, the Treasurer shall weigh the following factors:

- 1) the total asset size of the IPTIP Pool;
- 2) projected cash flows; and
- 3) anticipated administrative and management expenses.

The Treasurer shall notify all participants of any change in the administrative fee. In no event shall the administrative fee exceed 25 basis points or be less than 5 basis points (annualized). One basis point equals 1/100th of a percent.

d) Minimum time for participation in the Money Market Fund is one ~~11~~ day and the minimum time for participation in the Prime Fund is 30 days. Each ~~each~~ deposit or withdrawal must be no less than ~~One--Dollar~~ ~~+~~ \$1.00~~+~~.

e) Each participant will be permitted to invest in any or all investment accounts.

f) The Treasurer shall have the authority, and the participant will agree in the application, that the proceeds from any account that has been inactive for a period of one ~~11~~ year and during that period has not equalled or exceeded at any time \$1,000.00 shall be returned to the participant listed in the application after notice of the ~~such~~ pending action has been provided by mail to the participant.

(Source: Amended at 25 Ill. Reg. 14527, effective OCI 23 2001)

Section 740.30 Custodial Account

a) The custodian shall establish custodial accounts for participants who request the establishment of those ~~such~~ accounts for the safekeeping of securities.

b) The ~~administrator~~ custodian shall determine the fees to be paid for the establishment of custodial accounts, and such fees shall be listed on the application for the establishment of a custodial account that ~~which~~ must be completed by the public agency when establishing the account.

TREASURER

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 25 Ill. Reg. 14527, effective
06-23-2001)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 23, 2001 through October 29, 2001 and have been scheduled for review by the Committee at its November 13, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
12/6/01	Department of Revenue, Income Tax (86 Ill Adm Code 100)	9/7/01 25 Ill Reg 11340	11/13/01
12/7/01	Department of Public Health, Maternal Death Review (77 Ill Adm Code 657)	8/24/01 25 Ill Reg 10694	11/13/01
12/8/01	Department of Transportation, Custodial Transportation of Pupils Where Walking Constitutes a Serious Safety Hazard (92 Ill Adm Code 557)	8/3/01 25 Ill Reg 9837	11/13/01
12/8/01	Department of Transportation, Transporting Pupils Where Walking Constitutes a Serious Safety Hazard (92 Ill Adm Code 556)	8/10/01 25 Ill Reg 10161	11/13/01
12/8/01	Illinois Emergency Management Agency, Political Subdivision Emergency Services and Disaster Agencies (29 Ill Adm Code 301)	8/17/01 25 Ill Reg 10272	11/13/01
12/9/01	Department of Public Aid, Medical Assistance Programs (89 Ill Adm Code 120)	8/24/01 25 Ill Reg 10658	11/13/01

